

No. 10450

United States
Circuit Court of Appeals

For the Ninth Circuit.

HARRY BRIDGES,

Appellant,

vs.

I. F. WIXON, as District Director, Immigration
and Naturalization Service, Department of
Justice,

Appellee.

Transcript of Record

VOLUME VIII

Pages 3345 to 3809

Upon Appeal from the District Court of the United States
for the Northern District of California,
Northern Division

DAVID BERNSTEIN

called as a witness on behalf of the Alien, being first duly sworn, testified as follows:

Direct Examination

By Mr. Gladstein:

Q. Mr. Bernstein, is your name spelled B-e-r-n-s-t-e-i-n? A. Right.

Q. And what is your first name?

A. David.

Q. Do you have a middle name? A. No.

Mr. Del Guercio: I didn't get the name.

Presiding Inspector: David Bernstein, B-e-r-n-s-t-e-i-n.

Mr. Gladstein: And the first name is David.

Presiding Inspector: David.

By Mr. Gladstein:

Q. Where do you reside, Mr. Bernstein?

A. 1631 Steele Avenue, Los Angeles.

Q. How is that Avenue spelled?

A. S-t-e-e-l-e.

Q. Are you a man of family?

A. I beg pardon?

Q. Are you a man of family? [2673]

A. I have a wife.

Q. And you reside with your wife at that address, do you? A. Yes, sir.

Q. That is in the City of Los Angeles?

A. It is in the County of Los Angeles.

Q. I beg your pardon?

A. It is outside the city limits. It is Los Angeles County.

(Testimony of David Bernstein.)

Q. Los Angeles County. How long have you been a resident of Los Angeles?

Presiding Inspector: Mr. Bernstein, speak a little louder so that they can hear you.

The Witness: Your Honor, I will do that.

By Mr. Gladstein:

Q. How long have you been a resident of Los Angeles County?

A. About thirteen and a half years.

Q. What is your occupation?

A. I am a cloak operator.

Q. Cloak operator? A. Righto.

Q. That is in the garment trade, is it?

A. Yes, sir. [2674]

Q. How long have you followed that trade?

A. Thirty-one years.

Q. In following your occupation have you been a member of any trade union? A. Yes, sir.

Q. What trade union or trade unions have you been a member of?

A. I have been a member of the I.L.G.W.U. since 1909 until about 1930.

Q. You say "I.L.G.W.U." Is it correct that those initials stand for International Ladies' Garment Workers' Union? A. Correct.

Q. Now, you say that you were a member of that organization during what period?

A. Since 1909; about the middle of 1909 until 1930.

Q. And then did you become a member of another trade union?

(Testimony of David Bernstein.)

A. Yes. Then I was a member for just a short while from the Industrial Union while our union broke up in Los Angeles.

Q. You say that your union was broken up in Los Angeles?

A. Yes; then for a while. It was during the depression, yes. [2675]

Q. Did you become a member of the I.L.G.W.U. again? A. Yes, sir.

Q. In what year? A. In August, 1933.

Q. Have you remained a member of that union since that time? A. Ever since.

Q. Do you know a man by the name of Thomas Laurence? A. Yes, I do.

Q. How long have you known him?

A. Since about 1932 or the beginning of 1933. I do not remember the exact date or month.

Q. In what connection did you first make his acquaintance? A. As an officer of the union.

Q. What office did he hold?

A. That is, I was holding office at that time when I first met Tommy Laurence. I was a member of the Executive Board of my local.

Q. You were a member of the Executive Board of your local? A. Of my local union.

Q. What was the name of that local?

A. Local 65.

Q. How many local unions of the I.L.G.W.U. were there in [2676] Los Angeles at that time?

A. At that time? I think it was three locals.

(Testimony of David Bernstein.)

Q. Did you hold any other office besides being a member of the Executive Board? Did you represent your local union to any central body?

A. Yes. For two years I was a member of the Central Labor Council in New York—I mean, Los Angeles.

Q. That is, the American Federation of Labor Central Labor Council? A. Righto.

Q. You were a delegate from your local union to the Council, is that right? A. Yes, sir.

Q. That council is and was at the time that you are speaking of a central body composed of delegates from various trade unions affiliated with the American Federation of Labor who had local unions in Los Angeles and vicinity?

A. Correct.

Mr. Del Guercio: I object to that, if your Honor please. Is the witness answering the question or is counsel answering?

Mr. Gladstein: It is not the heart of the matter and I thought it would save time. But if counsel objects, I—

Presiding Inspector: (Interposing) Yes, don't lead. Let the answer stand, but I say, Don't lead.

By Mr. Gladstein: [2677]

Q. I think you said at the time you first met Thomas Laurence you were a member of the Executive Board of your local union?

A. When I first met Tommy Laurence, if it was in 1932 at that time I was not a member of my local union yet, but if it was in '33 I was a

(Testimony of David Bernstein.)

member of my local union and also a member of the Executive Board.

Q. I see.

A. I was elected—while I was a member of my local union six months I was a member of the Executive Board.

Q. All right. And during that period it was when you first became acquainted with Laurence?

A. Correct.

Q. Now, what dealings, if any, did you have with Mr. Laurence from time to time?

Mr. Del Guercio: Just a moment! I object to that, if your Honor please. There is no foundation laid for the purpose in asking that question.

Presiding Inspector: It is pretty broad, I think.

Mr. Gladstein: I beg your pardon.

Presiding Inspector: It is pretty broad, I think. Bring it down to the subject matter of the case.

Mr. Gladstein: I wanted to establish the acquaintance of the witness.

Presiding Inspector: You have already established it. [2678].

Mr. Gladstein: Oh, all right. I just established when it first began, but I haven't established how it continued.

Presiding Inspector: I suppose it is presumed to continue. He seemed to know him well enough to call him by his first name, his nick name, "Tommy".

(Testimony of David Bernstein.)

By Mr. Gladstein:

Q. Is that the name by which he is generally known? A. Yes, Tommy Laurence.

Presiding Inspector: You haven't ceased to know him?

The Witness: No. I know him all the time.

[2679]

By Mr. Gladstein:

Q. Mr. Bernstein, do you know what sort of a reputation Mr. Thomas Laurence has among his fellow workmen in the industry covered by the ILGWU in Los Angeles for—

Mr. Del Guercio: (Interposing) I object to the question.

Mr. Gladstein: I haven't finished the question yet.

Presiding Inspector: Do not answer yet. Go ahead.

Mr. Gladstein: Will you repeat the question, Mr. Reporter, as far as I went?

(The incomplete question referred to was read by the reporter as above recorded.)

By Mr. Gladstein:

Q. (Continuing) —for truth and honesty?

That is the question.

Mr. Del Guercio: I object to the question, your Honor.

Presiding Inspector: For truth and veracity.

Mr. Gladstein: I will change it to "truth and veracity."

(Testimony of David Bernstein.)

By Mr. Gladstein:

Q. Do you know what his reputation is for that?

The Witness: May I get a meaning of "veracity"?

Mr. Gladstein: Will you explain that, your Honor, inasmuch as you suggested it?

Presiding Inspector: Veracity means about the same thing as truthfulness.

By Mr. Gladstein: [2680]

Q. Do you know what his reputation is for truth and veracity?

Presiding Inspector: It means honorable truth.

A. Then I can answer that.

By Mr. Gladstein:

Q. Do you know what it is?

A. Yes. I—

Presiding Inspector: Nothing further. You do know it?

The Witness: I do.

Mr. Del Guercio: I object to it, further on the ground that it is not proper examination. Here we are trying to attack the witness, Thomas Laurence, and certainly it is not—

Presiding Inspector: You offered him as a witness. His veracity is subject to direct attack. That is what they call direct impeachment.

Mr. Gladstein: Correct.

Mr. Del Guercio: We may produce witnesses to show what his reputation for truth and veracity is.

(Testimony of David Bernstein.)

Presiding Inspector: To a limited number; and Mr. Gladstein is also limited to a limited number.

Mr. Gladstein: And also if he can find any.

Mr. Del Guercio: I object to that statement from counsel and ask that it be stricken.

Presiding Inspector: That wasn't proper. Go ahead.

Mr. Del Guercio: I didn't ask about him. I asked about [2681] the witness, Thomas Laurence.

Presiding Inspector: Go ahead.

By Mr. Gladstein:

Q. Now, Mr. Bernstein, you have already said that you do know what the reputation of Thomas Laurence is among his fellow workmen in Los Angeles in that industry. Will you please state what his reputation for truth and veracity is, whether it is good or bad?

A. It is bad. Now I can—

Presiding Inspector: Just a moment. Do not volunteer until you are asked further questions.

It is bad, he says.

By Mr. Gladstein:

Q. Based on that reputation, of which you just testified that you have knowledge, would you believe Thomas Laurence under oath?

A. I would not.

Mr. Del Guercio: I object to that.

Presiding Inspector: It is a proper question in the classical form.

Mr. Gladstein: In fact, —

(Testimony of David Bernstein.)

Mr. Del Guercio: (Interposing) He hasn't been qualified as an expert on this subject.

Presiding Inspector: He doesn't have to be. If he knows his reputation from the mouths of people associated with him he [2682] may tell whether that reputation for truth and veracity is good or bad. Then he may follow that up by asking whether he believes him under oath. That is the classical set of questions.

Mr. Gladstein: As a matter of fact, the United States Supreme Court has suggested just that form.

By Mr. Gladstein:

Q. Now, Mr. —

Presiding Inspector: He may have stated his answer. I did not hear it.

Mr. Gladstein: Will you read the answer, Mr. Reporter?

(The answer referred to was read by the reporter as above recorded.)

By Mr. Gladstein:

Q. Mr. Bernstein, have you had occasion from time to time to discuss Mr. Laurence's reputation with his fellowmen in Los Angeles?

A. I have.

Q. Will you tell us in general what those discussions with respect to his reputation for truth and honesty have been?

Mr. Myron: I object to that.

Presiding Inspector: Don't you think you ought to leave that to cross examination?

(Testimony of David Bernstein.)

Mr. Gladstein: I will leave it if they want to cross examine on it.

Presiding Inspector: You have the positive statement that [2683] he knows his reputation from the mouths of the people associated with him.

Mr. Gladstein: All right.

By Mr. Gladstein:

Q. Now, have you ever had occasion—withdraw that. First of all, are you acquainted with the defendant, Harry Bridges?

A. Not to talk to him. I saw Harry Bridges once or twice, to be correct.

Q. Will you state where and what the circumstances were when you saw him?

A. The first time I saw Harry Bridges was at the state Convention—some convention but I am not sure whether it was the State Convention or not—at the Royal Palms Hotel, in Los Angeles.

Q. What kind of a convention was that?

A. The CIO convention.

Q. A trade union convention? A. Yes.

Q. When was the other occasion when you saw him?

A. At a mass meeting at Gilmore Stadium, Los Angeles.

Q. Gilmore Stadium?

A. Gilmore Stadium.

Q. Do you remember what the occasion of that mass meeting was? [2684]

A. I am not positive, but I think it was one of the Tom Mooney defense meetings.

(Testimony of David Bernstein.)

Q. One of the Tom Mooney meetings. Did you see Mr. Bridges on both those occasions merely as a speaker? A. As a speaker; yes.

Q. You have no personal acquaintance with him? A. No, sir.

Q. Do you have any interest in this proceeding as far as he is concerned? A. No.

Q. Now, have you ever discussed—withdraw that. Have you ever heard Thomas Laurence speak on the subject of Harry Bridges?

A. Many a time.

Q. Under what circumstances have you heard him discuss Harry Bridges?

A. Discussing him with various workers of the trade—

Mr. Del Guercio: (Interposing) I object to that as immaterial.

Presiding Inspector: Well, he has heard it. He hasn't gotten to the crucial question yet.

Mr. Gladstein: Not yet. I am laying the foundation.

Mr. Del Guercio: The witness, Laurence, wasn't asked any questions about this witness here.

Presiding Inspector: He asked him what he has heard. He [2685] now says he has heard discussions of him. I will allow that.

By Mr. Gladstein:

Q. These are discussions, are they, Mr. Bernstein, that you have heard, that is, statements that you have heard Mr. Laurence make concerning Harry Bridges, is that right? A. Yes.

(Testimony of David Bernstein.)

Q. And where have these statements been made in a general way?

A. In the office in the Union hall.

Q. Can you state in general what the substance was of the statements that Mr. Laurence made on those occasions?

Presiding Inspector: "Yes" or "no".

Mr. Myron: We object to that question.

By Mr. Gladstein:

Q. Can you state that? A. Yes.

Q. Will you please do so?

Mr. Myron: We object to that.

Presiding Inspector: You object to it on what ground?

Mr. Myron: On the ground that no foundation has been laid for what he is going to say. We don't know what it is offered for.

Presiding Inspector: I suppose it is offered as direct evidence on bias. Supposing, for example, that he said, "I am going to kill this man when I get a chance." It certainly [2686] would be admissible.

Mr. Myron: I think a proper foundation must be laid.

Presiding Inspector: It isn't to show a contradictory statement. It is to show direct evidence of bias.

Mr. Myron: If that is the purpose,—

Presiding Inspector: That is the purpose, isn't it?

(Testimony of David Bernstein.)

Mr. Gladstein: Of course it is. It is very evident.

Mr. Myron: It isn't evident.

Mr. Gladstein: It may not be to you.

Presiding Inspector: I will allow it and if it doesn't show direct evidence of bias we will strike it out.

You may answer.

Mr. Gladstein: Would you like to have the question read?

The Witness: Yes, sir.

(The question referred to was read by the reporter as above recorded.)

By Mr. Gladstein:

Q. Now, I am asking you to state what the substance of those statements by Mr. Laurence, concerning Mr. Bridges, was.

Presiding Inspector: This is offered over the objection of the Government.

Mr. Gladstein: I understand.

A. Yes. It was usual, whenever Tommy Laurence discussed with the workers in the Union hall on any general question, that when the workers would make any statement at all that did not [2687] coincide with Tommy Laurence's opinion, as far as the trade union was concerned, he was always labeled a Red and a Communist, or a liar; especially when the question came up about Harry Bridges, without discussing anything about the Bridges case, he always used to turn red in his

(Testimony of David Bernstein.)

face and his eyes used to get actually bloodshot; he used to use the most violent names whenever he mentioned Harry Bridges. He also stated that "That man has to be deported."

Mr. Gladstein: You may cross examine.

Presiding Inspector: Mr. Del Guercio?

Mr. Del Guercio: If the Court please, may we ask that this witness be held until tomorrow?

Mr. Gladstein: Now, your Honor, the same question arises. When we first asked that the Government objected, and consistently with one exception, and that in the case of Mr. Chase, your Honor required us to immediately begin our cross examination. Now, your Honor will recall that in the case of Mr. Chase he was giving direct testimony of a material character in the case on the direct issues of the case. The present witness on the stand now is in the category known as a character witness. I do not see how the Court can, consistent with its previous ruling, grant the request of Mr. Del Guercio in this respect, and we object to it.

I also have this further statement to make to the Court: I am informed by Mr. Bernstein that he must be in Los Angeles in [2688] order to leave that city for Chicago on a matter of great importance to him, and that he must conclude his testimony today.

Now, I will listen to anything that counsel wants to make with respect to taking a deposition at some future date, or anything of the kind. In other

(Testimony of David Bernstein.)

words, I am willing that the Court grant to Mr. Del Guercio the same courtesy that was granted to us, namely, that on one witness they shall have time, but since we were allowed that, only one witness, we don't feel that the Government should be entitled to an unfair advantage over us. [2689]

Presiding Inspector: I think you can go on to some extent.

Mr. Del Guercio: I think the shoes is on the other foot now.

Presiding Inspector: I think you can go on to some extent. If it proves necessary I am going to hold this witness despite his engagement. I am sorry to do it, but I am going to grant you that privilege. Now, you can go ahead to some extent. I haven't found out yet whether it will prove necessary.

Cross Examination

By Mr. Del Guercio:

Q. Now, Mr. Bernstein, where were you born?

A. I was born in Russia.

Q. You were born in Russia. And of what country are you a citizen?

A. A citizen of the United States.

Q. When did you become a citizen?

A. About two years ago.

Q. Where? A. In Los Angeles.

Q. And in the United District Court at Los Angeles? A. Yes.

Q. Did you have any difficulty? [2690]

(Testimony of David Bernstein.)

A. No difficulty whatsoever.

Q. At that time—wait until I ask my question.

A. Oh, I am sorry.

Q. Did you or did you not?

A. No, I didn't have any difficulties at all.

Q. Have you ever been investigated by any Immigration Officers anywhere?

A. No.

Q. Never?

A. Never in my life.

Q. Never in your life?

A. Never in my life.

Mr. Gladstein: Let me ask this question. I suppose the question is meant to elicit information within knowledge of the witness.

Presiding Inspector: Yes, within his own knowledge.

Mr. Gladstein: It is quite possible for anybody to be investigated without knowing it.

Mr. Del Guercio: Yes.

Presiding Inspector: You may all have been subject to that indignity.

Mr. Del Guercio: Yes, even counsel, I might say.

Presiding Inspector: Or the Court. Go ahead.

By Mr. Del Guercio:

Q. Are you an admirer of Harry Bridges?

A. As a union leader I think that he is to my liking. [2691]

Q. What do you mean he is to your "liking"?

A. As a union leader.

(Testimony of David Bernstein.)

Q. As a union leader. Well, as a member of the Communist Party is he to your liking?

Mr. Gladstein: Just a moment, Mr. Bernstein. Don't answer that question.

If your Honor please, I don't think the grounds of objection for a question of that sort have to be stated. I think counsel should be admonished for asking a question of that sort.

Mr. Del Guercio: I think the evidence, if the Court please, has shown that Mr. Bridges is a member of the Communist Party. There has been no evidence here introduced as yet to controvert that.

Mr. Gladstein: Well, I don't think—

Mr. Del Guercio: Just a moment, please!

Mr. Gladstein: I will wait for you. I will wait for you.

Mr. Del Guercio: We have made—the Government has made a prima facie case. I think it has, that Mr. Bridges is a member of the Communist Party and has been; that he has been affiliated, been a member of and affiliated with an organization, the Marine Workers Industrial Union, which is an affiliate of the Trade Union Unity League and of the Red International of Labor Unions and no evidence has been intro- [2692] duced so far to controvert that evidence. And certainly it is a proper question to ask this witness.

Mr. Gladstein: Are you through? Are you through, Mr. Del Guercio?

(Testimony of David Bernstein.)

Mr. Del Guercio: Yes, I am through.

Mr. Gladstein: Now, if your Honor please, the question assumes the very issue involved in this proceeding and is not properly placed before any witness.

Presiding Inspector: One of the issues.

Mr. Gladstein: Or one of the issues, that is true. And is not properly placed before the witness. In the first place, look at the question. "Do you admire him as a member of the Communist Party?" That is the question that was asked.

Presiding Inspector: I don't know whether the witness recognizes him as a member of the Communist Party.

Mr. Gladstein: There is no evidence to indicate that.


Presiding Inspector: No. I don't see how the witness could answer that question.

Mr. Del Guercio: He has answered the question there that he admires him as a trade union leader. How does he know he is a trade union leader?

Presiding Inspector: I suppose that he knows that from his associations in trade unions and a matter of history. I don't think you ought to ask that question, quite as baldly as [2693] you do. I think I will exclude the question.

By Mr. Del Guercio:

Q. How long have you been in this country, Mr. Bernstein?



(Testimony of David Bernstein.)

A. Since the 20th of June, 1909.

Q. Since the 29th of June, 1909? A. Yes.

Q. Now, for how long a period did you know

Thomas Laurence?

A. About eight years or so.

Q. Eight years. Over what period of time?

A. I don't get that question.

Q. In what years?

A. I met him around 1932.

Q. Where did you meet him?

A. In the union.

Q. In the union? A. Yes.

Q. Did you ever work with him?

A. No. I never worked in the same shop.

Q. You never worked alongside of him in the same shop? A. No.

Q. Did you ever visit him at his home?

A. Once.

Q. Did you meet his wife?

A. Yes, I know his wife. [2694]

Q. Did you meet his children?

A. I don't think he has any.

Q. You don't think he has any?

A. Not to my knowledge.

Q. Did you have any social contact with Mr. Laurence at all? A. No.

Q. Never?

A. Just sometimes go to a restaurant and have a cup of coffee together. That is about all.

Q. And you say that you have known him for a

(Testimony of David Bernstein.)

period of about eight years from 1932, say, to about 1940? A. Up to date.

Q. Were you friendly with him during that period of time?

A. We played cards together only about six weeks ago.

Q. And what kind of cards did you play?

A. Oh, just a friendly game.

Q. For money?

A. No, no money involved.

Q. What kind of game did you play?

A. Played rummy.

Q. Who else was present?

A. Who was present? Two fellow members of the union. [2695]

Q. Two more members of the union. Is that the only time you played cards with him?

A. To my best recollection.

Q. Did you play any other games with him?

A. No.

Q. Are you in the habit of playing cards with men that in your opinion have a bad reputation for veracity and for truth?

A. Well, I happen to be a good card player myself and they wouldn't put anything over on me.

Q. You happen to be what?

A. I happen to be a good card player myself and they wouldn't put anything over on me.

Q. I didn't get that.

A. I am a good card player.

(Testimony of David Bernstein.)

Presiding Inspector: "And they wouldn't put anything over on me".

A. (Continuing) And they wouldn't put anything over on me.

By Mr. Del Guercio:

Q. Well, did he put anything over on you during that game?

A. No, no. He couldn't do it.

Q. Did you watch him?

A. Well, I was very careful about it. [2696]

Q. How long did you see him during that period of time that you say you knew him during those eight years? How many times about did you come in contact with him?

A. Sometimes probably ever day in the week and at times probably two or three times a week.

Q. When? A. In the office of the union.

Q. In the offices of the union. That is during the time that you were a member? A. Yes.

Q. But you weren't a member of any union in 1932, were you?

A. No. I stated before in my cross examination, I stated that if I met Tommy Laurence in 1932 I was not a member of the union then.

Q. Don't you know when you met him? You say "if" you met him.

A. I don't remember correctly whether it was in 1932 or '33.

Q. For how long a period—how many times

(Testimony of David Bernstein.)

would you see him within those eight years that you knew him? A. About how many times?

Q. Yes.

A. I can hardly remember. It would probably come up to [2697] the thousands.

Q. It probably would come up to the thousands. Did you ever tell him that you didn't believe in his truth and veracity?

A. Well, yes. We had quite a few arguments about it.

Q. You had arguments with him?

A. Various things.

Q. What kind of arguments?

A. Oh, as far as trade union activity.

Q. Well, how many of those arguments did you have?

A. Again I cannot recall how many times. Quite a few times.

Q. Well, you mean by "arguments" that you didn't agree with his policy in trade unions, or what?

A. Yes. It was in regards to when he was Business Agent of the union and somebody complained about his behavior as a Business Agent in his local union.

Q. What was his policy in connection with trade unions?

A. His policy was that workers used to come over to me, being that I was a member of the Exec-

(Testimony of David Bernstein.)

utive Board, and forward stories and complaints to me about Tommy Laurence. And I told them that I am not in a position—I used to forward them to the proper channels of the Joint Board. That is where all the grievances used to belong.

Q. I am speaking about the arguments that you had with [2698] Thomas Laurence. You said that you had arguments with Tommy Laurence.

A. Then I used to argue about these complaints in just an informal manner.

Q. Would you talk about those matters with Tommy Laurence?

A. Yes. Other times when other workers were along. Usually whenever I approached Tommy Laurence telling him about these complaints there was quite a disturbance many times.

Q. Tommy Laurence—

Mr. Gladstein: (Interposing) Just a moment! Just a moment! The witness hasn't finished.

Mr. Del Guercio: Well, don't—

Mr. Gladstein: (Interposing) Just a minute! I think the witness hadn't finished his answer.

Presiding Inspector: I thought he had quite finished, although perhaps not.

By Mr. Del Guercio:

Q. How long did—

Mr. Gladstein: (Interposing) Just a moment!

Mr. Del Guercio: Don't get excited, Mr. Gladstein.

(Testimony of David Bernstein.)

Presiding Inspector: Read the answer, please.

(The answer referred to was read by the reporter as above recorded.) [2699]

Presiding Inspector: He seems to have answered completely. It isn't very responsive, but then—

Mr. Gladstein: That is why I thought the witness hadn't finished; that this was the witness' method of—

Presiding Inspector: (Interposing) I am not sure. Getting started?

Mr. Gladstein: Possibly it is.

Presiding Inspector: Well, it is a bad method.

Mr. Gladstein: Could we have the question read to him?

Presiding Inspector: Anything else you wanted to say?

The Witness: I wanted to conclude something.

By Mr. Del Guercio:

Q. Is it in answer to my question?

A. Not completely.

Mr. Gladstein: Just a minute! The witness obviously misunderstood.

Presiding Inspector: Read the question:

(The question referred to was read by the reporter as above recorded.)

Presiding Inspector: Now, would you talk about those matters? These are these complaints.

The Witness: This is just what I wanted to

(Testimony of David Bernstein.)

bring out. The only time I approached Tommy Laurence—many times there was a disturbance and commotion in his office, and while I was an officer of the union myself—not a paid official, but [2700] an officer of the union—I walked in. Workers used to approach Tommy Laurence and tell him that his complaints were not attended properly. His reply to these workers was “You are nothing but a bunch of liars, Communists and Reds”. That is the time that I as a officer of the union started to speak about it calmly and again I was attacked, or whoever approached him was attacked. But I personally had quite a few talks with Tommy Laurence about these matters.

By Mr. Del Guercio:

Q. Did he ever accuse you of being a Red?

A. Yes, sir.

Q. Are you a Red? A. No, sir.

Q. Do you know what is a Red?

A. A Communist is a Red. That is the way I understand it.

Q. Did he ever accuse you of being a member of the Communist Party?

A. No. But he called me a Red and a Communist.

Q. And you resented that?

A. Certainly I resented that.

Q. Or did you? A. I resented it.

Q. Did you tell him so?

A. In various ways.

(Testimony of David Bernstein.)

Q. In what way did you tell him that you resented being [2701] called a Red?

A. This was my answer to him: "Tommy, the trouble with you is that anyone who doesn't agree with you you immediately label a 'Red', a 'Bolshevist' and a 'liar'".

Q. And what?

A. And also he called me a liar and other workers.

Q. Oh, he called you a liar?

A. Not personally, but as far as my union activities went.

Q. Well, did you ever hear him call you a liar?

A. Yes.

Q. How many times?

A. Oh, on a few occasions.

Q. And you called him a liar?

A. Well, I don't remember. Of course, my reply to him was just the way he attacked me.

Q. Did you ever have any fist fights with Mr. Laurence?

A. No, sir.

Q. What?

A. No, sir.

Q. Were you ever a member of the Needle Trade Workers Industrial Union?

A. Yes, for a short while.

Q. For how long a period?

A. I will have to do a little figuring. I think about [2702] seven or eight months.

Q. Seven or eight months. Who induced you to join, if anybody, the Needle Trade Workers Industrial Union?

(Testimony of David Bernstein.)

A. I didn't get your question, sir.

Q. How did you come to join the Needle Trade Workers Industrial Union?

A. It was at a time when our local here—formerly it was Local 25 in Los Angeles. When that local during—there was some trouble nationally as far as our union goes and there was no assemblance here. I don't remember the exact thing, but I think that our local at that time was expelled from the Central Body; that is, from the International Ladies' Garment Workers Union, and the bulk of the membership joined the Industrial—Trade Union Industrial—I don't remember exactly the name, and I was one of those who joined.

Q. You testified previously here that you weren't a member of any union in 1932.

Mr. Gladstein: Just a moment! That is a misstatement of the evidence.

Mr. Del Guercio: Well, it isn't a misstatement of the evidence. If your Honor please,—

Mr. Gladstein: (Interposing) Well now, that is not only a misstatement of the evidence, but it is a false statement, Mr. Del Guercio.

Presiding Inspector: Now, just a moment. [2703]

Mr. Gladstein: Now, your Honor, may I—

Presiding Inspector: (Interposing) Of course, we are all subject to forgetting these things.

Mr. Gladstein: I realize we are.

Presiding Inspector: And we misunderstand.

(Testimony of David Bernstein.)

Mr. Gladstein: But Mr. Del Guercio doesn't want it understood that he possibly has overlooked this.

Mr. Del Guercio: Not from you, anyway!

Mr. Gladstein: As I understand it, your Honor—let us see if we have this right, because I object to the question as assuming something not only not in evidence but the contrary of the evidence.

It is my impression that the witness testified that he joined the I.L.G.W.U., oh, many, many, years ago, that he remained a member until sometime in 1932; that he then ~~became~~ a member of an industrial union; that after he was a member of that industrial union for a short period of time, then he rejoined the I.L.G.W.U.

Presiding Inspector: Is that quite right?

The Witness: Not quite right.

Mr. Del Guercio: (Inaudible).

Presiding Inspector: It shows that—

Mr. Gladstein: (Interposing) Well, that doesn't prove that you are right either. [2704]

Presiding Inspector: Just a moment! I was saying something to the witness.

Mr. Gladstein: I am sorry?

The Witness: May I conclude?

Presiding Inspector: We want to know how those dates were.

The Witness: Then, while I was a member of the Needle Trades Industrial Union and the things

(Testimony of David Bernstein.)

in the trade was very bad. So in the year of 1932, at the very beginning of 1932 I was part owner of a gasoline station. That was during the Olympic Days in Los Angeles.

Mr. Del Guercio: I can't hear, your Honor. It is difficult to hear.

Presiding Inspector: He says early in '32 he was a part owner of a gasoline station.

The Witness: Of a gasoline station over on Tenth and Hope in Los Angeles.

Presiding Inspector: And you got out of the union?

The Witness: At that time I got out of the union.

Presiding Inspector: And how long were you out?

The Witness: I was out about a year.

Presiding Inspector: That is from early in '32 to early in '33?

The Witness: About, oh, it was just about early in '33. I don't remember the dates exactly. [2705-6]

By Mr. Del Guercio:

Q. Then for about a year you were not a member of any union and from the early part of 1932 to sometime in 1933 you were not a member of any union?

A. Until 1933 I was not a member of any union.

Q. When did you join the Needle Trades Workers Industrial Union?

(Testimony of David Bernstein.)

A. I think it was in '31.

Q. Now, you "think". Do you know for sure when you joined?

A. I cannot remember exactly the date.

Q. Well, were you a member of the other union in 1931? A. In 1931?

Q. Yes. A. I don't think so.

Q. Well now, —

Presiding Inspector: (Interposing) I think we are confused on the dates. Go ahead.

By Mr. Del Guercio:

Q. When did you cease being a member of the I.L.G.W.U.?

A. I think it was the end of 1930 when our local was expelled. I don't remember the dates exactly.

Q. When your local was expelled. Expelled from what?

A. When our local was expelled from the international Ladies' Garment Workers Union. [2707]

Q. Why were they expelled?

A. I don't remember the reason.

Q. Were you a member of the Executive Board at that time?

A. Not at that time. I became a member of the Executive Board of Local 65, which is the I.L.G.W.U.

Q. Let me see if I have it straight. You weren't a member of any union. That is, you left—strike that out, please.

(Testimony of David Bernstein.)

You first became disconnected with the I.L.G. W. U. in 1930. Is that your testimony?

A. About; about 1930.

Q. About 1930.

A. I don't remember the exact month or the date.

Q. Would you say it was the first part of the year? A. I cannot recall.

Q. And now were you a member of any other union during the year of 1930 after you left the I.L.G.W.U.?

A. For a while I was a member of the—when our local here, the bulk of the membership for a while—we had no charter at all, and for a while when our local was re-formed here in Los Angeles under the leadership of the trade union industrial, whatever it was called, then I rejoined with the bulk of the membership until I bought the gasoline station. [2708]

Presiding Inspector: When was that?

The Witness: I think it was about the latter part of 1930 until about the middle of '31. I don't remember exactly.

By Mr. Del Guercio:

Q. And who were the leaders that did that?

A. Our local leaders?

Q. Yes.

A. I think a fellow by the name of Willansky.

Q. The Reporter: Spell it, please.

(Testimony of David Bernstein.)

The Witness: I can't spell it. I think he calls himself "Willans".

By Mr. Del Guercio:

Q. Does he have more than one name?

A. I think when he was naturalized he changed his name from Willansky to Willans.

Q. Who were some of the other leaders?

A. They also had an Executive Board. There was a Secretary.

Q. Were you on the Executive Board?

A. No, not there.

Q. And was that affiliated with the American Federation of Labor? A. No, sir.

Q. With whom was it affiliated?

A. That I don't know. [2709]

Q. Did you inquire?

A. I was just an ordinary rank and file and I didn't know any of the affiliation of that union.

Q. Who asked you to join?

A. The shop where I worked.

Q. The shop where you worked. Who in the shop where you worked?

A. The shop Chairman.

Q. Where was your shop at that time?

A. At that time I worked for—let me think. Sax Bros.

Q. And what was the union known as?

A. We of the rank and file usually called it the—

Q. (Interposing) The what?

(Testimony of David Bernstein.)

A. The "industrial union".

Q. The "industrial union"? A. Yes.

Q. Are you sure it was the industrial union?

A. I believe it was called the "industrial union".

Q. When you say you "believe", do you know for sure?

A. I can't think of any other name.

Q. Is that the only reason why you say it was the "industrial union"? Because you can't think of any other name?

A. I think it was called the "industrial union". [2710]

Q. Was it affiliated with the Trade Union Unity League?

A. I don't know of any affiliations of our local union.

Q. You do know about the Trade Union Unity League, don't you? A. No, I don't.

Q. What? A. No, I don't.

Q. How do you know whether it was affiliated or not?

A. I don't know whether it was affiliated or not.

Q. It might have been?

A. It might have been.

Q. Would you care whether it was or not?

Mr. Gladstein: Well now,—just a minute! If the Court please, I think that question is not only remote—

Mr. Del Guercio: (Interposing) I think it is very competent.

(Testimony of David Bernstein.)

Presiding Inspector: I don't think it leads anywhere.

Mr. Gladstein: No.

Presiding Inspector: I will let him answer.

Mr. Gladstein: It is immaterial.

Presiding Inspector: Do you care one way or the other about it?

A. I wouldn't care.

Mr. Del Guercio: You wouldn't care.

Mr. Gladstein: How does he know what it means? The pro- [2711] per foundation for the question hasn't been laid.

Presiding Inspector: I don't think it is worth talking about.

Mr. Gladstein: All right.

Presiding Inspector: Go ahead. I will allow the answer.

By Mr. Del Guercio:

Q. How long did that organization remain organized? A. I beg your pardon?

Q. For how long a period did that union continue?

A. I really don't know because when I stepped out, when I bought that gasoline station it was still in existence.

Q. When did you step out?

A. It was either late in '30 or the middle of '31. I don't remember the exact month.

Q. It might have been in 1931?

A. It might have been in 1931.

Q. Yes. What did you do after that?

(Testimony of David Bernstein.)

A. I was part owner of a gasoline station.

Q. You were part owner of a gasoline station?

A. A gasoline station.

Q. For how long a period.

A. About eleven or twelve months.

Q. And during that period of time were you a member of any union? [2712]

A. No, sir.

Q. And in what year was that?

A. That was in the year—up to about the end of 1932. It was right after the Olympic Days. I don't remember when the Olympic Days were in Los Angeles.

Q. Would it be correct that you were not a member of any union in the year 1932?

A. In the year 1932 it would be correct.

Q. Were you a member of any union in the year 1933?

A. I re-joined this union on the 17th of August, 1933.

Q. Which union?

A. The union that I am at present a member of.

Q. And that is the—

A. (Interposing) Local 65.

Q. Of the International Ladies' Garment Workers' Union?

A. International Ladies' Garment Workers' Union, correct.

Q. Now, you say that you were a member of the Needle Trades Workers Industrial Union for a period of time. When was that?

A. That was in the year of—around, I think it

(Testimony of David Bernstein.)

was in the beginning of 1930, but I don't know if it was after the end of the 1930 or I stepped out of it after the beginning of 1931. I don't remember exactly. I know it was less than a year that I was a member there.

Q. Are you sure of the year 1930 or 1931?

[2713]

A. Yes. I am sure about '31, that it was part of 1931. I don't remember exactly whether it was a few months in 1931 or a month more or a month less. I don't remember that.

Q. Why did you drop out of the Needle Trade Workers Industrial Union?

A. I dropped out of the Needle Trades at that time because I dropped out from the trade entirely. I bought a gasoline station then and I was out of the trade and I dropped out of the union.

Q. I thought you previously testified that you dropped out of the International Garment Workers Union just before you took your service station?

A. No, I stated that I dropped out from the I. L. G. W. U. when our local here was expelled from the parent body, and then while the whole shop joined the Industrial Union—I think it is the Needle Trades Industrial Union, something like it—and I rejoined with the shop together.

Q. Was it the Industrial Union then that is now the Needle Trade Workers Industrial Union?

A. Something like that. We usually called it the "industrial union".

(Testimony of David Bernstein.)

Q. You knew that that was a Communist organization, did you not? A. I did not.

Q. What? [2714] A. I did not.

Q. At that time? A. I didn't.

Q. Do you know it now?

A. Even now I don't know.

Q. Huh?

A. Even at present I don't know.

Q. Did you ever find out that it was affiliated with the Trade Union Unity League?

A. Later on, of course, there was talk that there was some affiliations. But from the time that I was there I didn't know anything about it.

Q. Well, I mean do you know now? Have you ever found out as to whether it was ever affiliated with the Trade Union Unity League?

A. I know that there was accusation by our present leadership that it was a Communist organization, but I didn't know about it.

Q. Was there any accusation made by Laurence to you that the Needle Trade Workers Industrial Union, of which you had been a member, was a Communist organization?

A. Well, I never discussed that question with Tommy Laurence.

Q. Did Tommy Laurence know that you had been a member of the Needle Trade Workers Industrial Union? [2715] A. Yes, sir.

Q. And was it because of your affiliation with that, your membership in that Needle Trade Workers Industrial Union, that he called you a Red?

(Testimony of David Bernstein.)

A. No.

Q. Huh? A. No.

Q. He knew about it; however?

A. He knew that I was a member. It wasn't anything secret about it.

Q. And you knew that Tommy Laurence knew that the Trade Union Unity League was a Communist organization? A. That I didn't know.

Q. Did you not?

A. That I didn't know.

Q. Do you have a membership card?

A. From the union? Yes, I have it with me.

Q. In the Needle Trade Workers Industrial Union? A. Do I have it now?

Q. Yes. A. No.

Q. What did you do with it?

A. I turned it in when I—

Q. (Interposing) To whom did you turn it in?

A. To the local union. [2716]

Q. When was that?

A. That was sometime in '31.

Q. Who signed that card, your membership card in the Needle Trade Workers Industrial Union?

Mr. Gladstein: I will object to that as incompetent, irrelevant and immaterial. I think this entire line of examination is immaterial, if your Honor please.

Presiding Inspector: I will take it.

Mr. Del Guercio: Will you answer that question?

(Testimony of David Bernstein.)

Presiding Inspector: This is cross examination, Mr. Gladstein.

Mr. Gladstein: I realize that, and I wouldn't object if I didn't think——

Presiding Inspector: (Interposing) I want to allow the cross examiner broad latitude.

Mr. Gladstein: All right.

Presiding Inspector: If you can tell. If you can't tell, just say so.

The Witness: What is the question again?

Presiding Inspector: Who signed the card?

A. That I don't remember.

By Mr. Del Guercio:

Q. Didn't it state on the card, on your membership card, that the Needle Trade Workers Industrial Union was an affiliate of the Trade Union Unity League? [2717]

A. I don't remember that.

Q. It might have?

A. I don't know. I wouldn't say.

Q. Didn't you look at your card?

A. No, because I was not an active member at that time at all and I just paid my dues to get some protection in the trade. I always joined the trade union regardless of what trade/union takes care of my particular trade.

Q. You said that you paid dues. Did you pay dues continuously during the time you were a member of it?

A. No, I think at the time I turned in my card

(Testimony of David Bernstein.)

I was in arrears for three months or so. I didn't pay much dues for the time that I belonged.

Q. You read English, of course.

A. Yes, sir; I do.

Q. If I show you a membership card in the Needle Trade Workers Industrial Union would you recognize it?

A. I think I would if I would see it, because although I didn't see it for about eight years or so, nine years probably. [2718]

Q. Now, has anyone else ever accused you of being a Red? A. No.

Q. You are sure? A. Positive.

Q. At any time or place?

A. Well, I don't know how to answer that. At times there have been quite a few that took sides in the Union? If you did not agree with certain trade union policies that one section of the workers proposed they are in the habit of immediately calling somebody a Red some time or other, but I personally was not called that.

Q. I take it from your answer that others have accused you of being a Red, other than Thomas Laurence? A. No, not personally.

Q. "Not personally"—what do you mean by that?

A. It never came up that anybody should call me personally a Red but because of the discussions as far as trade union policies were concerned, there was somebody calling workers "Reds," or "Communists," or whatever it may be.

(Testimony of David Bernstein.)

Q. If Mr. Bridges here were a member of the Communist Party would you still have that admiration for him?

Mr. Gladstein: Just a moment. I think that question calls for conjecture and assumes something—

Presiding Inspector: If he can't answer he can say so. I [2719] will allow it.

Mr. Gladstein: I want the record to show that I object to the question as being improper, as being incompetent, irrelevant and immaterial, as calling for conjecture and speculation.

Presiding Inspector: No. It is calling for a state of mind. I will take it.

Read the question.

(The question referred to was read by the reporter as above recorded.)

A. If Mr. Bridges were a member of the Communist Party, and if he were to be a member of my union and tried to disrupt the work of our union, for the benefit of the workers in the trade, I would fight Harry Bridges on that principle.

Mr. Del Guercio: That doesn't answer the question.

Mr. Gladstein: I submit—

Presiding Inspector: It may stand.

Mr. Gladstein: I submit the statement of counsel should be stricken. I think it does answer his question, but the reason is that he just didn't like the answer.

(Testimony of David Bernstein.)

Presiding Inspector: We are not very much interested in the opinions of counsel at this time; maybe when it comes to sum up.

I will allow the answer even if it wasn't very responsive.

It was a question that could have been answered "Yes" or "No". [2720]

By Mr. Del Guercio:

Q. Were Harry Bridges a member of the Communist Party, and were he in your union, and were he following what you believed to be the union policy, would you still admire Harry Bridges?

The Witness: Please repeat that question.

Presiding Inspector: Read the question.

(The question referred to was read by the reporter as above recorded.)

Mr. Gladstein: I submit that the question is ambiguous and compound. I don't know what an answer of "Yes" or "No" would mean to such a question.

Presiding Inspector: Perhaps the witness will know.

Mr. Gladstein: I submit that even if he did give an answer it wouldn't mean anything in the record.

Presiding Inspector: Let us see if he understands the question. Do you understand the question?

The Witness: Yes, your Honor, I understand the question; but to answer "Yes" or "No" is hard for me to do.

(Testimony of David Bernstein.)

Presiding Inspector: You can't answer it "Yes" or "No"?

The Witness: No, I cannot answer "Yes" or "No".

Presiding Inspector: There is no objection to his explaining it?

Mr. Del Guercio: No objection to an explanation of the answer in any way he wants to. [2721]

A. I would not hold against any one of my superior officers, regardless of their political affiliations, if their policy, as far as the trade union questions are concerned, is correct and for the benefit of myself and the rest of my co-workers in the shops.

Mr. Del Guercio: I think that is satisfactory.

Presiding Inspection: Is that all.

Mr. Del Guercio: No.

Presiding Inspector: I beg your pardon. I thought you said that was all.

Mr. Del Guercio: I don't know whether I have asked this question or not, your Honor, but if I did I will withdraw it.

By Mr. Del Guercio:

Q. Have you ever been a member of the Communist Party? A. No, sir.

Q. Of the Communist Party as such, under either your name or under any other name?

A. No, sir.

Q. Have you ever used any other name?

A. No, sir. The only other name I use is Dave or David Bernstein at times.

(Testimony of David Bernstein.)

Presiding Inspector: That is the same name?

The Witness: Yes.

By Mr. Del Guercio:

Q. Have you ever contributed money to the Communist [2722] party? A. No, sir.

Q. Did you ever subscribe to the Daily Worker? A. No, sir.

Q. You know what the Daily Worker is?

A. Yes.

Q. What is it?

A. It is a Communist paper, but I never subscribed to it.

Q. How do you know it is a Communist paper?

Mr. Gladstein: I submit that is immaterial.

A. Because of the fact that we have it in our library in our union, the Daily Worker, the same as any other newspaper.

By Mr. Del Guercio:

Q. Does the Union subscribe to the Daily Worker?

A. It is right there in the library. I don't know whether it is—there are times we had the Daily Worker there, and we had the Hearst Press, and all the publications.

Q. Did you ever subscribe to the Western Worker? A. No.

Q. Do you ever read any Communist literature yourself? A. No.

Q. Do you ever buy any Communist publications?

A. I used to read the New Masses, but if it is a

(Testimony of David Bernstein.)

Communist paper—as far as I am concerned it may be a Republican paper, but I read it just as good. [2723]

Q. Have you ever been a member of the American League against War and Fascism?

A. No, sir.

Q. Have you ever been a member of the American League for Peace and Democracy?

A. No, sir.

Q. Have you ever contributed money to those organizations?

A. I don't remember; I don't remember at all.

Q. You may have contributed?

A. At times, probably, maybe to the Tom Mooney Defense Committee—I want to be truthful—to the Tom Mooney Defense Committee. They had some boxes collecting money, but I don't know. I never paid any attention to the boxes. I used to throw in a dime or a nickle.

Q. If you did contribute money to any of those organizations, the American League against War and Fascism, the American League for Peace and Democracy, you would know about it?

A. I wouldn't, because whenever I went to a labor meeting I figured if they were collecting money for something, and maybe it wasn't important, but from the point of view as a union man I used to put a nickle or dime in the box.

Q. Did you ever subscribe to the People's World?

A. No, sir.

(Testimony of David Bernstein.)

Q. How many times, did you say, you had met Bridges? [2724] A. Twice.

Q. Did you have any conversations with him at that time? A. No, sir.

Q. Did you ever ask him if he was a member of the Communist Party? A. Pardon?

Q. Did you ever ask him if he was a member of the Communist Party?

A. I never spoke to Bridges in my life.

Q. How long have you known Mr. Gladstein, counsel here?

A. Mr. Gladstein—I met him today.

Q. For the first time?

A. For the first time; yes.

Q. Do you know Mr. Margolis?

A. I met Mr. Margolis yesterday in Los Angeles.

Q. Do you know Mr. Leo Gallagher?

A. Not to talk to him. I also met him at some meetings.

Q. At what meetings?

A. One of the Tom Mooney defense meetings most of the time, because I was a member of the Tom Mooney Defense Committee from our union, from the ILGWU.

Q. Do you know Mr. Al Wirin?

A. Al Wirin—yes, but not to talk to him. That was when they had the Civil Liberties Forum in Los Angeles several years ago. Dr. Taft used to conduct those forums. [2725]

Q. Who asked you to testify in this case?

(Testimony of David Bernstein.)

A. Who asked me to testify in this case?

Q. Yes.

A. When we were discussing, you know, the members of the union were talking about this—

Q. (Interposing) Can't you answer the question, who asked you to testify?

Mr. Gladstein: The witness started to answer.

Presiding Inspector: If you tell, you can tell directly; if you cannot tell you may explain.

A. I said to some of the union there that if it would be necessary to give my true statement as far as Tommy Laurence's behavior is concerned in the union, I would do it.

A few days later I had a call from the defense office, from the Bridges Defense office. Somebody called me up at my house. I told him whatever I knew about Tommy Laurence.

By Mr. Del Guercio:

Q. Who called you?

A. A fellow by the name of Samuels.

Q. Samuels?

A. Yes; Samuels. I think he is connected in Los Angeles with the Bridges Defense office.

Q. What did he say?

A. He asked me if I am a member of that particular union and "Do you know Tommy Laurence?" I told him "Yes." I told [2726] him some things and he jotted it down.

Then Sunday night, to be correct, Saturday night, Mr. Margolis called me up at the house.

Q. Who called you?

A. Mr. Margolis.

(Testimony of David Bernstein.)

Q. Margolis?

A. Yes. And yesterday I went out to see him.

Q. Where, in Los Angeles?

A. In Los Angeles. And I told him what I know about Tommy Laurence and that I got it through our union as a member of the Union.

He took notes. And then he asked if I, whether I would be willing to come up to San Francisco to-day to testify. I told him it would be hard because I was all packed to go away—it was just a family affair—to Chicago, and I would have to be there the 10th.

Q. But you had previously let it be known that you were willing to testify?

A. I didn't know until yesterday that I would have to come up here. I simply told him what I knew about this case. I have never appeared as a witness in court before. This is my first experience.

Q. What were the names of those union men you say you were talking to about Thomas Laurence?

A. Quite a few; I don't remember their names.

[2727]

Q. Don't you remember the names of any?

A. Well, a fellow by the name of Cooper—C-o-o-p-e-r.

Q. What is his first name?

A. I think it is—I don't know his first name. He is just called "Cooper".

Q. Cooper—C-o-o-p-e-r?

A. Correct.

(Testimony of David Bernstein.)

Q. Is he is a member of your Union?

A. Yes; a member.

Q. Who else?

A. Who else was around—I really can't recall. There were quite a few around, but I can't recall all these names.

Q. Cooper is the only one that you remember?

A. There were quite a few, but I don't remember. I think they forwarded my name to the Defense Committee—I don't know who.

Q. Who forwarded your name?

A. I don't know; that I wouldn't know. There was quite a group there.

Q. By "quite a group" how many men were around?

A. There were about ten or twelve around.

Q. When did this occur, when you were talking about Thomas Laurence with these men?

A. It was about the latter part, not of last week, but the previous week, week before last, about the latter part, I [2728] think it was. I don't remember the exact date.

Q. It was after Thomas Laurence had appeared to testify in this proceeding?

A. Yes, it was after that; right shortly afterwards.

Q. Where did this take place?

A. In the office of the union.

Q. In whose office—anybody's in particular?

A. Our headquarters has offices around, and

(Testimony of David Bernstein.)

there is a place where the workers congregate and talk about different things.

Q. Was it in the big assembly hall or in a small office?

A. It was right in the union headquarters; and in the big assembly hall would be more proper.

Q. Who started the discussion about Thomas Laurence?

A. When I got there they were discussing it already.

Q. Do you know who were discussing it?

A. Those workers standing around there, but I don't remember exactly who it was.

Q. What were they saying?

A. They were just talking about Tommy Laurence, and each one expressing his opinion, and the way he always expresses himself about Harry Bridges, and it wasn't no surprise that that was the general opinion of all the workers.

Q. What did they say—when you got there what were they saying? [2729]

A. When I got there this was the very thing and that is why I stopped to hear what they were talking about—they were saying they would be surprised if Tommy Laurence would not testify against Bridges, or anybody else, in order to get a few dollars. That is the remark I heard. I don't know who said it.

Q. What did you say?

A. I didn't pass no comment on it at all. I was just standing there and listening. Finally I told

(Testimony of David Bernstein.)

them, "As far my association with Tommy Laurence is concerned, and as much as I know Tommy Laurence, I would not be a bit afraid or ashamed to go up and tell what I know of my experiences as a union officer, as far as Tommy Laurence is concerned, and as far as his disappearance from office was concerned, about a year and a half ago, without any explanation, and the general conduct." So I figured if this would help in any way to clear matters up as far as Tommy Laurence was concerned, I would do it.

Q. Help whom, help Harry Bridges

A. No, no—just to prove to the State, or whoever it may be, whoever may call me, as far as the behavior and the character of Tommy Laurence was concerned. I wasn't concerned about Bridges then at all.

Q. Did you ever talk to any Government Agent about this?

A. No, sir.

Q. Why didn't you go to a Government Agent?

[2730]

Mr. Gladstein: I submit that is immaterial and it is argumentative. I object to it as being improper.

Presiding Inspector: I think it is argumentative, but I will take it.

By Mr. Del Guercio:

Q. Why didn't you tell the Government Agent?

A. If a Government Agent were to call on me I would extend them the very same courtesy as I extended the attorneys for the defense. And I

(Testimony of David Bernstein.)

would extend the same courtesy to the United States Government.

Q. You had heard Thomas Laurence had been called by the Government as a witness, hadn't you?

A. I didn't know it until I was shown the newspaper, the Los Angeles Times. I didn't know he was called as a witness until then.

Q. Who showed it to you?

A. A paper was there at the time all the workers were discussing this matter.

Q. At the time they were having this discussion?

A. Yes.

Q. That is the first time that you had known that Thomas Laurence had appeared as a witness?

A. I knew it a day or two before; either on a Friday or on a Monday.

Q. Then you did know about it before you saw it in the [2731] Times?

A. I don't know whether it was on Monday or Friday that I saw it the first time, the picture of Thomas Laurence in the Los Angeles Times.

Q. And you saw it for the first time when you were having this discussion at the union?

A. The discussion took place a day or two days later; I don't exactly remember.

Q. Did you know that Thomas Laurence was a member of the Communist Party while he was a member of your union?

A. No, I didn't know that. There were rumors that he was a member of the Party at that time.

Q. Did you take any action after you heard the

(Testimony of David Bernstein.)

rumor that he was a member of the Communist Party?

A. We usually take action, as members of the Executive Board, whenever a certain complaint is filed. It was not within my jurisdiction to take action on Tommy Laurence. He was not a member of my local union. It was only the Joint Board, which consists of delegates of all executive boards, that could take action upon a matter pertaining to a member of a different local.

Q. Thomas Laurence was never a member of your local union? A. No.

Q. At any time? A. At no time. [2732]

Q. Didn't you think it strange, Mr. Bernstein, that Thomas Laurence, a member of the Communist Party, would call others "Reds"?

The Witness: May I answer?

Presiding Inspector: Yes.

—A. Tommy Laurence, I was told, was a member of the Communist Party until around, possibly '34 or thereabouts.

By Mr. Del Guercio:

Q. Who told you that?

A. Some workers in the Union were always saying that, he was. He was accused many times. Whenever a question was taken up on the floor of the union it was brought out by some that he was a member of the Communist Party.

Q. Did you ever attend union meetings in which Thomas Laurence was present?

(Testimony of David Bernstein.)

A. I could not attend any of his local meetings. Whenever it was a mass meeting, or a joint executive board meeting, those are the meetings I attended. I didn't attend any of the local meetings of his union.

Q. In what capacity did you attend those meetings?

A. The joint executive board meetings, I attended in the capacity as a delegate from my local union to the executive board.

Q. Did you participate in the discussions?

A. Yes; right along.

Q. Did Thomas Laurence ever participate in those [2733] discussions? A. Yes, sir.

Q. Was it in any of those discussions that he accused you of being a Red?

A. No. He never accused me directly. Whenever he talked he always called everybody; every member in the union who did not agree with him on trade union questions, he used to call them a Red; but not me directly.

Mr. Del Guercio: May we have a recess now?

Presiding Inspector: Yes.

Whereupon a short recess was taken.

By Mr. Del Guercio:

Q. Mr. Bernstein, were you ever a member of the Unemployed Relief Workers Union?

A. No, sir.

Q. At any time? A. No, sir.

Q. Do you know if Thomas Laurence had ever been arrested? A. I don't know.

(Testimony of David Bernstein)

Q. What? A. I don't know.

Q. Did you ever make it a point to find out if he had been? A. No.

Q. Were you interested in finding out if he had ever [2724] been arrested? A. No, sir.

Q. Do you know if Mr. Laurence was a member in good standing of the union to which he belongs?

A. I think he is a member in good standing.

Q. And always was during the time that you knew him?

A. I think he was. He is not a member of my local. I think he was a member in good standing.

Q. Could a person be a liar and be a member in good standing in a union? A. Yes, sir.

Q. He could? A. Yes, sir.

Q. Could a person be a Communist and be a member of a union? A. That I don't know.

Q. Have you ever been arrested?

A. No, sir.

Q. Have you ever had any trouble with the police at any time? A. No, sir.

Q. Have you ever been held for investigation?

A. No, sir.

Q. Have you ever participated in any demonstrations? A. No, sir.

Q. You know where the Plaza is in Los Angeles?

[2735]

A. I pass there in my car, my automobile, almost every day, the Plaza.

(Testimony of David Bernstein.)

Q. Did you ever stop to listen to speeches there in the Plaza? A. No.

Q. Have you ever attended Communist Party meetings?

A. I never attended Communist Party meetings.

Q. At any time in Los Angeles, or anywhere else? A. At no time, nowhere.

Q. Have you lived in Los Angeles all the time?

A. All the time in Los Angeles.

Q. Have you ever had any dealing, business or otherwise, with Leo Gallagher? A. No, sir.

Q. You know who he is?

A. I know who he is; yes, sir.

Q. Have you ever been a party to any suit?

A. No, sir.

Q. In any court?

A. No. This is my first experience in court.

Mr. Del Guercio: That is all.

Redirect Examination

By Mr. Gladstein:

Q. The expression "good standing in a union" simply means that a man is paying his dues? [2736]

A. Paid up to 13 weeks, a man is in good standing.

Q. And it doesn't have anything to do with his character or reputation, does it? A. No, sir.

Q. When you mentioned that the Daily Worker was in your union reading room, were you referring to the ILGWU?

A. Referring to the ILGWU.

(Testimony of David Bernstein.)

Q. Now, you used the expression, "Olympic days," when you were talking about the time you had a gasoline station in 1932 or thereabouts?

A. Yes.

Q. That is a reference to the time that the Olympic Games were being held in Los Angeles?

A. Correct.

Q. When your local union of the ILGWU was expelled from the International, and you joined this other industrial union, I want to ask you whether, in order to keep their jobs in the industry, it was necessary at that time for the bulk of the membership of the former ILGWU local to join the new industrial union?

A. It was for the benefit of those that joined, for the benefit of any member to join a labor union that existed at that particular time, and then this was the union that existed at that particular time.

Q. In that industry? A. Yes. [2737]

Q. Was there any other trade union in that industry and covering the shops in which you and these other workers were employed, that you could have joined?

A. While I had a gasoline station then the old local was reorganized; but I was not in the trade then.

Q. But during the period that you were in the industrial union was there any other union that you could have joined which would have given you protection of your job in the shop where you were working?

(Testimony of David Bernstein.)

A. There was some kind of an office, but no shops whatsoever for a short period of time, controlled by any other union to my knowledge.

Q. Except the one that you joined?

A. Except the one I joined.

Q. Now, you mentioned, in answer to Mr. Del Guercio's questions, that on some occasions when you went into the office you found Tom Laurence engaged in conversation with workers who were making complaints to him. Is that correct?

A. Correct.

Mr. Del Guercio: That was not in answer to my question.

Presiding Inspector: He testified to that, I think.

Mr. Gladstein: All right.

By Mr. Gladstein:

Q. Will you state whether, during those occasions the workers were accusing Laurence of lying to them? [2738]

Mr. Del Guercio: I object to that, your Honor, as being improper.

Presiding Inspector: I think you opened the door to it.

Mr. Del Guercio: I didn't ask that question at all, if he had ever heard any conversations with Thomas Laurence, and the record will so show. Counsel started that and you ruled it out.

Presiding Inspector: Of course, he couldn't show that as direct matter, specific instances. He was confined in the first instance to conversations. But you went into the subject of conversations.

(Testimony of David Bernstein.)

Mr. Del Guercio: Conversations where a group of union men were gathered around.

Mr. Myron: I think you are wrong. I think the only conversation brought out in regard to his testimony here—

Presiding Inspector: He said—I don't mean direct conversations, but in general—didn't this witness say that they would be on opposite sides of arguments and that Thomas Laurence called them "Reds," his opponents, "Reds," and "Communists," and "Bolsheviks," and he gave it back to them?

Mr. Del Guercio: He testified that he never heard Laurence directly call him a "Red".

Presiding Inspector: Not him, no; but he called those [2739] with whom he was having controversies "Reds," and I understood him to say that he gave it back to them.

Mr. Gladstein: I think your Honor is correct in his recollection.

Presiding Inspector: That is my recollection. I think I will take it. If I am wrong in that you may move to strike it out.

Mr. Gladstein: Read the question, please.

(The question referred to was read by the reporter as follows:

"Q. Will you state whether during those occasions the workers were accusing Laurence of lying to them?")

A. Yes.

(Testimony of David Bernstein.)

By Mr. Gladstein:

Q. Do you understand the question?

Presiding Inspector: Do you understand the question?

The Witness: Yes, I understand the question.

By Mr. Gladstein:

Q. All right. Answer.

A. (Continuing) Just briefly, yes. On several occasions workers approached Tommy Laurence and tell him as their representative that their complaints as far as the shops were concerned were not attended to properly or not attended to at all by Tommy Laurence. So that was the time commotions started because, as I stated before, he, in turn, [2740] would call them "Reds", "Communists", and "You are nothing but a bunch of liars." Then it was proven that these complaints were actually never attended to.

Presiding Inspector: There was a good deal of bantering back and forth?

The Witness: Just on trade union matters, yes.

Presiding Inspector: They called each other "Communists"?

The Witness: No, but—

Presiding Inspector: (Interposing) Is that right? Did they call each other "Communists" and "Reds"?

The Witness: But these workers—

Presiding Inspector: (Interposing) "Liars" and other "polite" things like that?

(Testimony of David Bernstein.)

The Witness: No. These workers did not come back at Tommy Laurence because he was their superior officer and probably at times for fear of losing their jobs they would not. That was where I used to step in and tell Tommy Laurence that he is not acting right as a union official to abuse the workers the way he does. Then at that time he used to come back at me, too.

Presiding Inspector: So you had it back and forth?

The Witness: Yes.

Mr. Gladstein: I think that is all.

Recross Examination

By Mr. Del Guercio: [2741]

Q. Do you know if any of the persons whom Laurence accused of being Communists were or were not members of the Communist Party?

A. Many of these here workers that he used to accuse—

Q. (Interposing) Of your own knowledge?

A. Many of these here workers that he used to accuse I can vouch that they were absolutely very far from it, because on many occasions, if they thought somebody is trying to bring in at one time or another some political questions in the union, the very same workers would oppose those workers that try to bring in political questions in the union.

Q. Are you opposed to Communism?

A. I don't know anything about it. I never made a study of it.

Q. So you are not opposed to it?

(Testimony of David Bernstein.)

A. I never made a study of it.

Q. You never made a what?

A. I never made a study of Communism.

Q. "Story"? A. Study.

Mr. Gladstein: Study.

Presiding Inspector: He never made a study of it.

By Mr. Del Guercio:

Q. So your answer is that you were not opposed to Communism because you never made a study of it? [2742]

A. I never made a study of it because I don't know anything about it, pro or con.

Q. Would you say that Communism is good for the United States?

A. I don't know what it is. I know about the New Deal or NRA because I was for it.

Q. The NRA was for Communism?

A. No. I made a study of the NRA. It was good for the workers. It is good for the citizens of the United States.

Presiding Inspector: He has left Communism. He is talking about the NRA.

Mr. Del Guercio: That is all. Just a minute, if your Honor please.

By Mr. Del Guercio:

Q. Did you ever write an article for the Western Worker? A. Never did.

Q. Do you know of any other David Bernstein?

A. No.

(Testimony of David Bernstein.)

Q. Huh? A. I don't know.

Mr. Del Guercio: That is all, your Honor, at the present time. We want an opportunity to investigate this man's character.

Presiding Inspector: With every single one of the witnesses you will have this same request. He is only a [2743] character witness. He doesn't know anything about the main subject here.

Mr. Del Guercio: I have in mind, your Honor, when I make this request, of course, conducting an investigation. We intend to do that. But I also have in mind Mrs. Lovelace here who had a better reason than this witness for going back to her home in Seattle and who was kept here for two days.

Mr. Gladstein: That was for further cross examination. Now counsel has indicated that he has no further questions. I am asking the court to excuse the witness, but if the Government feels that they want Mr. Bernstein back at a future time, when he has come back to Los Angeles or wherever they may find him let them call him as their witness.

Presiding Inspector: He can still get to Chicago.

Mr. Gladstein: Yes.

Presiding Inspector: I think he had better stay if they want him.

Mr. Gladstein: Do you want him until tomorrow?

Mr. Del Guercio: We will abide by whatever the Court says.

Presiding Inspector: I really don't think it is worth while.

(Testimony of David Bernstein.)

Mr. Del Guercio: Very well.

Presiding Inspector: You may go.

The Witness: Thank you, your Honor: [2744]

Presiding Inspector: How long are you going to be gone?

The Witness: I will be back on the 17th of June.

Presiding Inspector: The 17th of June?

The Witness: Unless something will come up I will be here again.

Mr. Gladstein: Do you want to leave a forwarding address with Judge Sears?

The Witness: I will do that.

Mr. Del Guercio: I think the witness has been excused, your Honor. All this isn't necessary.

Presiding Inspector: All right. You are excused. You needn't leave any address.

Mr. Gladstein: Thank you very much, Mr. Bernstein.

(Witness excused.)

Mr. Gladstein: Mr. Appel, please.

BERNARD APPEL

called as a witness on behalf of the Alien, having been first duly sworn, testified as follows:

Direct Examination

By Mr. Gladstein:

Q. Mr. Appel, your last name is spelled how?

A. B-e-r-n-a-r-d.

(Testimony of Bernard Appel.)

Q. That is your first name, Bernard?

A. Yes, sir.

Q. And your last name is what? [2745]

A. A-p-p-e-l.

Q. And where do you reside?

A. I beg your pardon?

Q. Where do you live?

A. 131 West Norwood Place, Wilmar, California.

Q. Is that part of Los Angeles?

A. Well, it is a suburb of Los Angeles.

Q. Are you a man of family? A. Yes, sir.

Q. What does your family consist of?

A. I have two boys in high school and my wife.

Q. And do you reside at that address with your family?

A. Yes, sir, for the last 15 years.

Q. Are you a member of any fraternal organizations?

A. I belong to the American Legion, Veterans of Foreign Wars and Mantle Club.

Q. You say you belong to the American Legion. Of what Post? A. 397, Monterey Park.

Q. Where? A. Monterey Park.

Q. How long have you been a member of that Post?

A. Five months. I used to belong to another post.

Q. And what was the post to which you used to belong? A. 399. [2746]

(Testimony of Bernard Appel.)

Q. And when did you first become a member of the American Legion?

A. Oh, it is about six, seven years ago.

Q. Did you have anything to do with the founding of any post of that organization?

A. I was an Adjutant when we formed the Veterans of Foreign Wars' Post 1052 in Monterey Park.

Q. How long have you been a member of that organization?

A. Well, I was a year a member of that. It is only about two years old and I dropped out because the meeting nights were changed so I couldn't attend the Mantle Club, and the Mantle Club is compulsory to attend meetings. But I rejoined again since they changed their meeting nights.

Q. What is your occupation?

A. I am a ladies' garment cutter.

Q. That is in the women's apparel industry, is it?

A. Yes, sir.

Q. Are you a member of a trade union?

A. Yes, sir. I belong to the International Ladies Garment Workers Union.

Q. How long have you been a member of that organization?

A. About eleven years.

Q. Are you now a member of that organization?

A. Yes, sir. [2747]

Q. What local do you belong to?

A. Local 84. That is the Cutters' Local.

Q. How long have you belonged to that local?

A. This same time.

(Testimony of Bernard Appel.)

Q. During that period of time, Mr. Appel, have you had occasion to meet a man by the name of Thomas Laurence?

A. Yes, sir. I know him well, because he worked in the same trade as I am, and prior to us forming a union, we have tried to organize the cutters and we formed the Cutters' Club, and he was active in that the same as I was and a number of others, and we had occasion to work together quite closely because of that. Well,—

Mr. Del Guercio: (Interposing) What kind of a club was that?

The Reporter: Cutters' Club.

A. (Continuing) Well, it fell apart in time. We didn't seem to be able to ~~stick together~~, and I believe it was in 1932 the International came in and organized a small group of workers in the needle industry and they called us out on strike. I was working at that time in the Ladies' Dress Industry and they called a general strike in the ladies' dresses, and after that we have had a union ever since and we have worked in the Cutters' Local together. He used to be a member of the Executive Board. So was I, and I was on the Joint Board and so was he at times. And so we had plenty of occa- [2748] sion to work together. By Mr. Gladstein:

Q. Now, when you say you were a member of the "Joint Board", does that have reference to the supervising or highest body in Los Angeles com-

(Testimony of Bernard Appel.)

posed of delegates from the various local unions of the I.L.G.W.U.?

A. That's right. That's the head of the needle industry in Los Angeles.

Q. Now, have you ever had occasion to talk with Mr. Laurence concerning Harry Bridges?

A. I did have quite a number of occasions and I would put it in the following manner: We were affiliated with the American Federation of Labor, and I believe it was three years ago the national office decided that it would be best for us to join the CIO. So we left the Federation of Labor and joined the CIO, and in order to be able to function they have formed what they call a CIO Council. All those unions that have belonged to the CIO in Los Angeles and vicinity formed a council.

Well, Tommy Laurence was delegated to be a member on that council, and after a little while when the council was functioning there seemed to have been differences of opinion how to run that council and those differences became quite bitter in the course of a short few weeks, I would say, and Tommy Laurence attributed all these troubles that he thought were [2749] troubles to Harry Bridges. Of course, not being in the council I don't know just where he connected that up. I couldn't say.

Q. What did he say to you concerning Bridges?

A. Well, he—

(Testimony of Bernard Appel.)

Mr. Del Guercio: (Interposing) I object to that, your Honor. Just a moment! I object to this line of testimony as being immaterial, what he said about Harry Bridges.

Presiding Inspector: I will allow it. It is to show bias.

Mr. Gladstein: Yes, your Honor.

A. (Continuing) He referred to him, if he spoke to me—we sometimes met in front of the union or in the union and talk about his trials and tribulations in the CIO council, and he would say that “I hate that Bridges! That son of a bitch! I would do anything in the world to get him! I would even lie to hang him!” And he said that to me a number of times, and any time he spoke about Bridges he certainly wasn't very complimentary.

Among other things he appeared to me a number of times and he said that “Bridges and John L. Lewis made it a practice to appoint nothing but Communists in the top men in the unions”. He was actually bitter. I would say that that man was a little bit unbalanced on that question.

By Mr. Gladstein: [2750]

Q. At what time were these conversations taking place? Two or three years ago?

A. Two or three years ago. We would meet and he certainly didn't speak very well of Bridges and John L. Lewis.

Q. Did you ever have occasion to ask Mr. Lau-

(Testimony of Bernard Appel.)

Q. Did he claim that Harry Bridges was a Communist Party member?

A. Yes. You see, being that he connected up Bridges and Lewis with Communism I asked him at one time, I says, "Tommy, do you know whether Bridges is a Communist?"

He says, "No, but he sure is dominated by Communists". He says—excuse my expression. He says "That son of a bitch sure is dominated by Communists!"

Q. He told you that he was going to "get" Bridges and he would ever lie to hang him?

A. That is just what he said.

Q. Did you ever hear Tom Laurence make speeches in the union in which he attacked Harry Bridges?

A. He most certainly has. He attacked him in the bitterest way.

Q. When he made these attacks on Bridges could you characterize the manner of his attack?

A. Well;—

Mr. Del Guercio: (Interposing). If your Honor please, I think that is uncalled for. Does he want this witness to [3751] give an act up here on the witness stand, characterize or what?

Mr. Gladstein: I think the question is proper.

Presiding Inspector: I think he can answer that. He doesn't have to give an act. He is to characterize in words not in deed.

Mr. Gladstein: Yes.

A. (Continuing) Well, I would put it in the

(Testimony of Bernard Appel.)

following manner: He spoke about how Bridges was maneuvering in the maritime unions. I can't report those explanations because I am not at all familiar with the structure of the maritime workers. So it was Greek to me what he spoke about it. But when he spoke about it he seemed to have—he tried very hard to create an impression that Bridges was an evil force in the maritime union and I would actually say, I mean by his expressions, he would charge him with dishonesty.

Q. Now, when Laurence made these attacks on the union floor against Bridges will you describe for us how he conducted himself?

A. Well, I would say that without exaggeration, that in time it became so that you could tell—any man could tell who would take a little look at him—that he was actually frantic. He wasn't talking like a normal person and he would do the same thing when he talked with me about Bridges. He [2752] just,—

Mr. Del Guercio: (Interposing) I move to strike that answer out.

Mr. Gladstein: He hasn't finished the answer yet.

Presiding Inspector: Strike the last out. It wasn't responsive.

Mr. Gladstein: What last? What part?

Presiding Inspector: "He also said it when he talked with me."

Mr. Gladstein: Oh, all right.

Presiding Inspector: Strike that out because that wasn't what you were asking him.

(Testimony of Bernard Appel.)

Mr. Gladstein: All right.

By Mr. Gladstein:

Q. Would you say, Mr. Appel, that it appeared to you when Laurence was making these attacks against Mr. Bridges as to whether or not Laurence appeared to have an obsession on Bridges?

A. I would definitely say he had and he has.

Q. Did Laurence ever tell you that he would lie to "get" Harry Bridges out of the labor movement?

A. He certainly did.

Q. Do you know Harry Bridges?

A. No, sir.

Q. Have you ever met him? [2753]

A. No, sir.

Q. Have you ever seen him before?

A. Well, I have seen him when Tom Mooney was freed. Our union held a mass meeting in—I forget now the name of the largest auditorium in Los Angeles. It is not the Olympic. It's a stadium anyway. It was so large, I was sitting away back that I could see the man speak. I mean, I could see him there and I could hear occasionally a word, but I couldn't tell his features at all. I wouldn't recognize him if I see him.

Q. That is the only time you were ever present at a place where he was?

A. That is the only time I would say that I have seen him.

Mr. Gladstein: You may cross examine.

Presiding Inspector: When did these statements and these expressions occur?

(Testimony of Beirnard Appel.)

The Witness: Your Honor, I would say about the last two and a half years because, if I remember correctly, we joined the CIO about three years ago. But we are out of it again and we are in the American Federation of Labor. Since that time, since our being affiliated with the CIO he became hateful of—I mean, in words he spoke hateful of Bridges and Lewis and Communists and we used to talk in front of the union waiting for the meeting or hang around there after work, and he would speak to me about it and he invariably would make a [2754] speech the kind I am telling you.

Presiding Inspector: Let me ask you one more question. He occupied certain positions in the union?

The Witness: Yes, sir.

Presiding Inspector: Was he elected to those?

The Witness: No.

Presiding Inspector: How did he get them?

The Witness: Well, sir, it is this way: It is customary in our union to elect Business Agents, but it so happened that it was what you call "mid-term". So he was appointed to represent chiefly the cutters, and if the cutters have some difficulty in the shop it was his duty to go and try to straighten it out with the employer.

Well, he held that job down—I don't recollect how many months. I would say possibly eight months, and all at once he disappeared, didn't tell anybody. It is customary in the union if an official wishes to resign—

(Testimony of Bernard Appel.)

Presiding Inspector: (Interposing) I didn't ask you about this.

The Witness: Oh, yes.

Presiding Inspector: I was simply asking you how he was chosen.

The Witness: He was nominated.

Presiding Inspector: By the—— [2755]

The Witness: (Interposing) By the Manager.

Presiding Inspector: Yes. And who was the Manager?

The Witness: I believe Lutzky.

The Reporter: Spell it, please.

The Witness: L-u-t-z-k-y.

Presiding Inspector: Do you want to ask any more questions?

Mr. Gladstein: No, your Honor.

Presiding Inspector: We will take a recess now until tomorrow morning at ten o'clock.

(Whereupon at 4:10 P. M. an adjournment was taken until Tuesday, May 6, 1941, at 10:00 A. M.) [2756]

Court Room 276,
Federal Building,
San Francisco, California,
May 6, 1941.

Met, pursuant to adjournment, at 10:00 A. M.

[2757]

PROCEEDINGS

Presiding Inspector: Call your witness, Mr. Grossman.

Mr. Grossman: Take the stand, please, Mr. Appel.

Before we proceed, your Honor, yesterday at the beginning of the session Mr. Del Guercio requested that the transcript be changed; substituting, I believe, the spelling "M-a-a-s" for "M-a-y-e-s" in several places in the transcript.

We have examined those portions of the transcript and we cannot agree to any change. Our position is that if the reporter's statement is that that was his hearing and recollection of the testimony, we do not—

Presiding Inspector: It doesn't matter a bit. There doesn't have to be any change because they both sound the same and will be considered the same by the trier of the facts probably. They are what is called *idem sonans*. It doesn't make any difference about the spelling.

Now, Mr. Del Guercio, you have the witness.

Mr. Del Guercio: Have you finished on direct?

Mr. Grossman: We are through with our direct.

Presiding Inspector: You know the rule about names sounding the same.

Mr. Grossman: We didn't make the request. Apparently the Government thinks it is important; we don't.

Presiding Inspector: You don't think it is important and I don't either because I think they are just the same name. [2758]

Mr. Del Guercio: Mr. Myron will take over the cross examination.

Presiding Inspector: Very well.

BERNARD APPEL

called as a witness on behalf of the Alien; having been previously duly sworn, testified further as follows:

Cross Examination

By Mr. Myron:

Q. Is Appel (accent on last syllable) the correct pronunciation of your name?

A. Yes, sir.

Q. How old are you? A. 49.

Q. Where were you born?

A. In Hungary.

Q. Where? A. Hungary.

Q. When did you come to the United States?

A. 1910.

Q. Where did you enter?

A. New York City.

Q. What port? A. New York City.

Q. New York City? [2759] A. Right.

Q. Are you an American citizen?

A. Yes, sir.

Q. When did you become naturalized?

A. 1916.

Q. Where? A. In New York City.

Q. In what court? A. Bronx court.

(Testimony of Bernard Appel.)

Q. Do you have your certificate of naturalization?

A. No, sir, I haven't got it with me.

Q. Where is it now?

A. It is in a safe deposit box.

Q. In Los Angeles? A. Yes, sir. [2760]

Q. You are a member of the American Legion?

A. Yes, sir.

Q. Did you serve overseas?

A. I beg your pardon?

Q. Did you serve overseas? A. Yes, sir.

Q. What Division did you serve in?

A. I was a member of the 85th Division and part of my Division was shipped first to England and we were split up there. Part of the Division was sent to France and I was sent to North Russia into the Archangel District.

Q. In what capacity?

A. I was a member of the Medical Corps.

Q. Were you a member of the Medical Corps when you enlisted or were drafted into the service? Were you enlisted or drafted into the service?

A. I was drafted.

Q. Drafted? A. Yes, sir.

Q. And were you a member of the Medical Corps when you were drafted?

A. No, sir. I was assigned to the Engineers.

Q. And did you at some later date request a transfer? A. Yes, sir.

Q. And you served in the Medical Corps continuously [2761] until the—

(Testimony of Bernard Appel.)

A. (Interposing) Until I was mustered out.

Q. When was that? A. In 1919, in July.

Q. Now, you say that you served in Russia, is that correct? A. Yes, sir; North Russia.

Q. For how long a period?

A. About ten months.

Q. Did you state at the time that you requested a transfer that you didn't want to appear in the firing line?

A. No. I requested to be put into the Medical Corps upon the grounds that I have had conscientious objections to kill people.

Q. And have those conscientious objections continued? Have you continued that conscientious objection? A. Yes, sir.

Q. And have you recently stated to groups of people that they should not take arms against enemies? A. No, sir.

Q. Have you stated to any individual—

A. (Interposing) No, sir.

Q. Are you positive of that?

A. I am positive of that.

Q. But you are a conscientious objector? [2762]

A. Just to the degree that I wouldn't kill people.

Q. What is that?

A. Just to the degree I would serve my country in any other capacity except killing people.

Q. And you haven't stated to the public in general or to any individual—

A. (Interposing) No, I had no occasion to.

(Testimony of Bernard Appel.)

Q. Have you advised any people—

A. (Interposing) No, sir. I had no occasion to.

Q. Wait until I finish the question. Have you advised anybody not to take up arms?

A. Definitely no.

Q. In defense of the nation? A. No.

Q. When did you become a member of the American Legion?

A. About—I was a member about five or six years ago in the Richard Garvey Post.

Q. Strike that. When did you first become a member? A. That's the time.

Q. Five or six years ago? A. Yes, sir.

Q. What Post did you join at that time?

A. Richard Garvey Post.

Q. What is that?

A. Richard Garvey Post. [2763]

Q. Where is that? A. In Wilmar.

Q. Does that have a number?

A. I think it is 399.

Q. 299? A. 399. I think it is 399.

Q. 399. How did you become a member of that?

A. Like everybody else would.

Q. Well, would you state how you did become a member?

A. A neighbor of mine came around and asked me to join the Post and I did.

Q. Who was the neighbor?

A. I don't know his name now.

Q. And have you continued as a member of that Post up to date?

(Testimony of Bernard Appel.)

A. I continued—No, not up to date. I dropped out because their meeting nights—

Q. (Interposing) When did you drop out?

A. I don't remember the year.

Q. Well, was it last year or the year before?

A. I think two years ago.

Q. You say you joined about five years ago?

A. I think so.

Q. Now, you dropped out about two years ago? [2764]

A. I think so. I am not sure.

Q. That would be around 1939 or the latter part of '38?

A. Maybe. I don't remember the year.

Q. Now, did you re-join subsequently?

A. I re-joined now, about January or December.

Q. The same Post?

A. No. I re-joined the Monterey Park Post, 397.

Q. Why didn't you join the same Post that you were a member of, before?

A. Well, I liked the boys in 397 that I knew there better and I thought that attending meetings. I would rather join with boys that I know better than I knew in some of the other Posts.

Q. Did you get along easy with the boys in the Post that you previously belonged to?

A. Yes, sir.

Q. You didn't have any trouble with them?

A. Not at all.

(Testimony of Bernard Appel.)

Q. But still you joined a different Post this time?

A. I enjoyed their company better, that's all.

Q. What is the number of this Post?

A. 397.

Q. 397? A. Right. [2765]

Q. Who was the Commander of the Post 399 when you joined?

A. I believe it was McDermott.

Q. Was there a subsequent Commander during your membership?

A. Maybe so, but I don't remember.

Q. Did you attend meetings while you were a member of that Post? A. Not very often.

Q. You weren't a very active member of the Post? A. No. I had no time.

Q. Now, you say you re-joined 397?

A. Right.

Q. About when?

A. I think it was December.

Q. December of what year?

A. 1940. I got my card for 1941.

Q. That was last December? A. Yes.

Q. Who asked you to join that Post?

A. I wanted to join on my own volition.

Q. And how did you join?

A. I have a friend of mine who is a Past Commander, Barney Barris, who I know for about fifteen years and I asked him to induct me into his Post. And he did. [2766]

(Testimony of Bernard Appel.)

Q. And have you continued up to date as a member of that? A. Yes, sir.

Q. Have you attended meetings?

A. No, sir.

Q. Never attended a meeting?

A. Only attended one.

Q. One meeting? A. Yes, sir.

Q. In the course of two years?

A. Not two years. From 1940, December, until now is not two years.

Q. Of course, you were a member of 399?

A. Yes.

Q. For a period of about two years, and a member of this Post for a period of about six months?

A. Six months.

Q. And you attended one meeting during the course of your membership?

A. Oh, no. I attended more in the other Post.

Q. How many meetings did you attend?

A. Quite a number of them.

Q. Quite a number? A. Yes.

Q. But you were not an active member? [2767]

A. No.

Q. And you have never been an active member?

A. I don't know what you mean "active".

Q. What is that?

A. What do you mean "active"?

Q. Attend meetings, participate in debate.

A. As I say, I attended a number of meetings there.

Q. Vote on questions and such things as that?

(Testimony of Bernard Appel.)

A. That's right.

Q. That is what I mean by "active". Now, were you an active member?

A. I wouldn't say very active, no.

Q. You were not an active member?

A. No. I attended meetings.

Q. Was it because you are a conscientious objector? A. No, sir. [2768]

Q. Of course, the American Legion is in favor of everybody defending the country, isn't that true?

A. So-am I.

Q. But you don't believe in anybody taking up arms?

A. I didn't say that I don't believe in taking up arms, but I believe in serving my country.

Q. I say, you don't believe in taking up arms—the American Legion advocates taking up arms in the defense of the nation? A. Yes.

Q. Is that why you weren't a very active member? A. No.

Q. Why weren't you a very active member?

A. Just didn't have time.

Q. Well, were you going around stating to other people that they should not take up arms?

A. No, sir; never did.

Q. I think you stated you were a member of the Medical Corps while you were in the army?

A. Yes, sir.

Q. Of course, you weren't wounded during the war?

A. No, sir; but I have a citation for heroism.

Q. What is that?

(Testimony of Bernard Appel.)

A. I have a citation for heroism.

Q. Are you receiving compensation? [2769]

A. Yes, sir.

Q. Were you examined? A. Yes, sir.

Q. By whom?

A. The medical staff in Sawtelle.

Q. Where? A. In Sawtelle.

Q. Where is that? A. In Los Angeles.

Q. That is the Veterans Bureau in Los Angeles?

A. Yes, sir.

Q. And when were you examined?

A. A little better than a year ago.

Q. Was that the first time?

A. Oh, no. I have been re-examined.

Q. Let's find out the first time you were examined. Can you state that? A. No, sir.

Q. You don't know when you were first examined? A. No.

Q. Did you apply for compensation?

A. Yes, sir.

Q. And you don't know when you did apply?

A. I don't remember the year. I have drawn the compensation for a number of years. [2770]

Q. Well, you can give us the approximate time—was it ten years ago or fifteen years ago?

A. No, I don't think it is ten years; possibly seven.

Q. About seven years ago?

A. Maybe so; yes.

Q. That would be some time around '34, 1934?

A. Maybe; I don't remember the year.

(Testimony of Bernard Appel.)

Q. As a result of that examination did you receive compensation? A. Yes, sir.

Q. What was the diagnosis?

A. Heart trouble.

Q. Heart trouble? A. Yes.

Q. How do you know that?

A. Because I was examined by other doctors too and was treated after I came out of the army—I treated myself—because I had heart trouble.

Q. When?

A. In 1919 when I came out of service.

Q. You were examined by doctors and treated for heart trouble? A. Yes, sir.

Q. It wasn't until 1933 or 1934, that you applied for compensation, is that right? [2771]

A. Right.

Q. And you say that at that time the diagnosis showed heart trouble? A. Yes, sir.

Q. And that is the reason that you were paid?

A. Heart and glandular trouble.

Q. Now, there was nothing else?

A. I didn't claim anything else.

Q. I say, nothing else was shown on the record?

A. I don't know; I didn't read the record.

Q. You knew what they found wrong with you?

A. That is what I said, heart and glandular trouble, as far as I know, but I didn't get to read the records.

(Testimony of Bernard Appel.)

Q. As far as you know there was nothing else wrong with you except heart trouble?

A. That is all.

Q. Were you subsequently examined?

A. What do you mean by "subsequently?"

Q. After 1934, as you stated.

A. Every two years or so I am called in for an examination.

Q. They examined you again in 1936 or thereabouts? A. Yes, sir.

Q. And what did the diagnosis show then?

A. They didn't tell me. [2772]

Q. They didn't tell you? A. No, sir.

Q. You never found out? A. No, sir.

Q. You don't know whether it was heart trouble or—

A. (Interposing) No, sir. That is what I complained about. What they found they didn't tell me. They never tell me what they find.

Q. Now, after 1936 or thereabouts were you examined again?

A. Yes. I believe it is about every two years that I have been examined.

Q. That would be about 1936—1938?

A. I wouldn't want to say the years because I don't know. I am telling you how it works.

Q. Well, you gave approximately—

A. (Interposing) Approximately; yes.

Q. (Continuing) —about seven years ago as the first examination? A. I think so.

(Testimony of Bernard Appel.)

Q. That would be '34. And a subsequent examination was about two years later, in 1936?

A. I think I am called in every two years for the examination.

Q. There was another examination in '38?

[2773]

A. About, I would say, a year and a half ago I was examined.

Q. When was the last examination?

A. As I say, about a year and a half ago.

Q. That was some time in '39?

A. I would say so.

Q. About the latter part of '39?

A. I don't remember just when; I would estimate it as then.

Q. What was the diagnosis then?

A. They didn't tell me. I complained about the same thing.

Q. How much compensation are you receiving?

A. \$29.00.

Q. Did you find that you were subject to hysteria?

A. No, sir.

Q. You are sure of that, now?

A. I am sure of that.

Q. And still you don't know what they did find?

A. No; they didn't find any such thing because I have no such complaint.

Q. I am asking you what they found, if you know?

(Testimony of Bernard Appel.)

A. They didn't tell me what they found. They were examining my heart and not my mind.

Q. That is the only thing they did examine you for? A. That is all. [2774]

Q. You wouldn't say that they didn't find that you were subject to hysteria?

A. I would say they didn't find that.

Q. Did the examination show, hyperthyroidism?

A. It was heart and glandular trouble.

Presiding Inspector: He said glandular trouble.

Mr. Myron: I am asking now if the diagnosis showed—

Presiding Inspector: How is he supposed to know? He told you a half a dozen times that he hasn't seen the records.

Mr. Myron: I didn't understand that.

Presiding Inspector: I understood that.

Mr. Myron: I understood him to say he didn't know what the diagnosis showed.

Presiding Inspector: He hadn't seen the report. They never showed him the reports, he said.

Mr. Myron: I will take that, your Honor.

Presiding Inspector: Is that so?

The Witness: Yes, sir.

Presiding Inspector: Didn't you say that?

The Witness: Yes, sir, I did, because they don't give me the report in my hands.

(Testimony of Bernard Appel.)

By Mr. Myron:

Q. Did the doctors tell you—

A. (Interposing) No.

Q. They didn't tell you what was wrong with you? [2775]

A. No, sir.

Q. Did anybody connected with the Veterans Administration tell you what was wrong with you?

A. No, sir. The only thing I complained about was trouble with my heart, and that is what I have been examined for. What the doctors found I don't know because I don't get that paper to read and they don't tell me.

Q. Then as far as you know you went in and complained about your heart?

A. That is all.

Q. And when you were examined you don't know what was found, and they paid you \$29.00 a month compensation, is that right?

A. I know it was based on the trouble with my heart.

Presiding Inspector: How did you get the idea about glandular trouble?

The Witness: I was told that I had glandular trouble and heart trouble.

Presiding Inspector: Who told you?

The Witness: When I was examined the doctor said "Glandular trouble", and I didn't know where or what it meant.

Presiding Inspector: Then they did tell you something about the diagnosis?

(Testimony of Bernard Appel.)

The Witness: No, sir. That is the only thing I asked, "What did you find, doctor?" and he said "Heart and glandular [2776] trouble," and no more.

By Mr. Myron:

Q. Then the doctor did tell you——

A. (Interposing) That is the only thing he said.

Q. Who told you this?

A. One of the doctors.

Q. I thought you said a minute ago nobody told you anything.

A. As I said before, I had heart and glandular trouble, and the only way I knew it was because the doctor told me "Heart and glandular trouble."

Q. Didn't you say a moment ago no doctor told you anything about it?

A. No. This is the only thing they said.

Q. Then they did tell you something about it?

A. That is all, and I said that before.

Q. They didn't tell you that you were subject to hysteria, did they?

A. Absolutely no, because I am not.

Q. You are positive of that?

A. I am positive because I am not subject to hysteria.

Q. Well, now, think back——

A. (Interposing) I can think.

(Testimony of Bernard Appel.)

Q. (Continuing) —no doctor connected with the Veterans Administration ever told you that?

A. I am positive. [2777]

Q. And no official of the Veterans Administration ever told you that? A. No, sir.

Q. Are you married? A. Yes, sir.

Q. Is your wife active—

A. (Interposing) She joined the Veterans of Foreign—I thought you asked me if she was active?

Q. I haven't finished the question. Is she active in Legion affairs? A. No; she hasn't time.

Q. Is she a member of the Auxiliary of the—

A. (Interposing) She is a member of the Veterans of Foreign Wars Auxiliary.

Q. Are you a member of the Veterans of Foreign Wars? A. Yes, sir.

Q. What post? A. 1052.

Q. 1052? A. Right.

Q. How long have you been a member?

A. I was a member when it was formed. I was Adjutant of the Post.

Q. When was that?

A. About two years ago. [2778]

Q. How long? A. Two years ago.

Q. That was about 1939?

A. I think so; yes.

Q. And you have been a member ever since?

A. No. They changed the meeting nights to Mondays and I belonged to a fraternal organiza-

(Testimony of Bernard Appel.)

tion where Monday meeting attendance is compulsory and I had to attend, so I didn't attend their meetings so I dropped out. I have rejoined now.

[2779]

Q. When did you re-join?

A. About four months ago. They changed their meeting nights to Wednesday, so I can attend their meetings.

Q. Is your wife a member of the Auxiliary?

A. Yes, sir.

Q. To what Post does she belong?

A. 1052.

Q. And you are a member now of 1052?

A. Yes, sir.

Q. Now, is your wife a member of the Auxiliary of the American Legion?

A. No, sir.

Q. Has she applied for membership?

A. No.

Q. As far as you know?

A. No.

Q. Are you sure she hasn't?

A. Quite sure.

Q. Well, you would know if she had?

A. Well, not necessarily. But I don't know of it if she has.

Q. You don't know whether she has applied for membership in Post No. 393?

A. No.

Q. Do you know where that Post is?

[2780]

A. No.

Q. You don't know where that is located?

(Testimony of Bernard Appel.)

A. No.

Q. Do you know where Wilmar is?

A. Wilmar? A. Yes.

Q. And you are sure, or you don't know whether she has applied for membership?

A. If it is the Richard Garvey Post then I know.

Q. What is that?

A. If it is the Richard Garvey Post then I know. I don't know it by number. I am not sure whether it is 399 or 393.

Q. But do you know whether she has applied for membership in that Post?

A. I don't know.

Q. Well, if she has would you know?

A. Possibly. I wouldn't know necessarily.

Mr. Gladstein: It has been asked and answered several times.

By Mr. Myron:

Q. You wouldn't necessarily know?

A. I wouldn't necessarily know.

Presiding Inspector: I think you have covered that.

By Mr. Myron:

Q. Is 393 the Post which you belonged to at one time?

A. If it is the Richard Garvey Post that's the Post I [2781] belonged to.

Q. And you transferred from that Post?

(Testimony of Bernard Appel.)

A. No. I dropped out and I joined the Monterey Park Post.

Q. You are now in 397? A. Yes, sir.

Q. Is that right? A. Yes.

Q. So that if she applied for membership in 393 it would be the Post to which you formerly belonged? A. Yes, sir.

Q. Now, who is the Commander of Post 1052 of the Veterans of Foreign Wars?

A. It's—I will tell you in a minute. I think it's Thomas.

Q. Thomas?

A. Thomas. There was a new election just recently.

Q. Is that a first name or last name?

A. Stewart Thomas or Thomas Stewart.

Q. Now, which is it? A. I don't know.

Q. You don't know very much about this Post you just joined, do you? A. I do know.

Q. What? A. I do know. [2782]

Q. You should know the Commander's name.

A. There was an election just recently.

Q. All right. Do you know the Commander's name? A. I do.

Q. What is it? A. Stewart Thomas.

Q. Stewart Thomas?

A. Or Thomas Stewart.

Q. Which is it?

A. I don't know. I know the man. That is enough.

(Testimony of Bernard Appel.)

Q. You don't know very much about this Post?

A. I do know.

Mr. Grossman: I submit it is argumentative and obviously irrelevant.

Presiding Inspector: I think it is irrelevant.

Mr. Myron: I want to find out if he knows anything about this Post.

The Witness: I know the name.

Presiding Inspector: You have asked him about fourteen times.

Mr. Myron: And he hasn't given me an answer yet.

Presiding Inspector: Yes, he has. He said it was either Thomas Stewart or Stewart Thomas and he didn't know which it was.

Mr. Myron: I want to find out—— [2783]

Presiding Inspector: (Interposing) That's all you can find out.

The Witness: I know the man well. He is living in my district.

Presiding Inspector: You have asked him repeatedly. We have got to make some progress. Go ahead.

By Mr. Myron:

Q. Now, you are a member of the I.L.G.W.U., is that right? A. Yes, sir.

Q. That is the International Ladies' Garment Workers' Union, is that right? A. Right.

(Testimony of Bernard Appel.)

Q. Where were you first employed after you became a member of that Union?

A. I was employed at the Well-Made Garment Company.

Q. At the Well-Made Garment Company?

A. Well-Made Garment.

Q. And when did your employment start at that company?

A. I believe it started in July, 1929.

Q. And you became a member of the union at that time?

A. No. We didn't have no union then.

Q. Well, when did you become a member of the union?

A. I believe it was in '32. We were called out on a general strike, and from that time on we had a union and I was [2784] a member ever since.

Q. That is in 1932? A. Right.

Q. At the time you were a member of the union you were called out on a general strike?

A. No. We were not members of the union. We had no union up until '32.

Q. Well,—

A. (Interposing) And we were called out. The shops that weren't organized were called out on strike.

Q. Who called you out?

A. The International.

(Testimony of Bernard Appel.)

Q. And you were not a member of the union?

A. There was nobody a member then. There was no union in Los Angeles then.

Q. Well, who had the right to call you out, not being a member of the union?

A. They have a right to call out workers and organize them.

Q. Well, who asked you to go out?

A. The International Ladies' Garment Workers' Union established an office and asked us to join their union and called us out on a strike.

Q. Well, then, the union, as I understand it, was organized? [2785]

A. The union is organized.

Q. Now, just get this straight! The union was organized at the time you were working with this company and then they called you out, although you were not a member of the union, in a general strike. Is that true?

A. I began to work for this firm in 1929 and I worked for them six and a half years, which would take it to 1932 when I was called out on a strike.

Presiding Inspector: I don't think you quite get the question. Ask the question again.

By Mr. Myron:

Q. When did you become a member of the union, Mr. Appel. A. In 1932.

Q. What month?

A. I believe it was in March or April.

(Testimony of Bernard Appel.)

Q. March or April? A. Yes.

Q. Of 1932?

A. Wait! I wish to make a correction. I wish to make a correction. We have had the cutters—there was a little union started before that. I just remember. And a small group of us belonged to the International then. It just flashed through my mind. It must have been about 1930.

Q. Then you want to correct that statement?

[2786]

A. Yes, I do.

Q. By stating that you were a member of the union prior to 1932? A. Yes.

Q. Is that right? A. Yes.

Q. All right. Now tell us when you first became a member of the union.

A. Tell you what?

Q. When you first became a member of the union. A. About '30 or so; 1930.

Q. About 1930? A. I think so.

Q. And that is what month in 1930?

A. I wouldn't remember.

Q. Now, when was the general strike that you have just referred to? A. I think '32.

Q. Well then, the general strike had nothing to do with your membership in the Union?

A. No, that's right. You are right.

Q. Is that right? A. I am wrong.

Q. Then you were wrong and I was right?

A. That is right. I just forgot.

(Testimony of Bernard Appel.)

Q. From 1930 to 1932 you were a member of this Inter- [2787] national Ladies' Garment Workers' Union, is that right? A. That's right.

Q. And in 1932 there was a general strike?

A. Right.

Q. And you were called out? A. Yes.

Q. And you participated in that strike?

A. Right.

Q. Is that right? A. Right.

Q. Now, that had no reference whatever to your membership in the union, to your ~~joining the union~~; is that right? A. No.

Q. So you want to change that now?

A. What do you mean, "change it". I don't understand your question.

Q. Well, I understood you to say that as a result of a general strike—

A. (Interposing) No, no.

Q. (Continuing) —in 1932—

A. (Interposing) No, that was wrong.

Q. That was wrong. All right. A. Yes.

Q. Now, when did you first meet Mr. Laurence?

A. I met him before that. We have tried to organize [2788] the cutters.

Q. Well now, just when? You can tell us the year or the month.

A. About 19—19—around 1929 or '30.

Q. About 1929 or '30?

A. I would say about that time.

(Testimony of Bernard Appel.)

Q. Was he working for the same firm that you were working for? A. No, sir. No.

Q. How did you meet him?

A. In the union.

Q. This was in 1930?

A. I would say '29 or '30, yes.

Q. Well, of course you didn't join the union until 1930, did you?

A. Well, about that, yes. But I am trying to explain.

Q. Now, that is true, isn't it?

A. That's right.

Q. I want to get it straight.

A. I want to explain you something. Then you will get it straight.

Q. All right.

A. In 1929—the reason I know is because I was homesteading in '28 and I came back in '29, the end of June, back to Los Angeles. When I came back I got the job in Well-Made [2789] Garment Company in a dress house. From that time on we sort of talked about having an organization and a group of—

Q. (Interposing): Now, who is "we" and what is the organization?

A. We cutters in the dress industry. And we banded ourselves together and formed what we called the Cutters' Club, because there was no union then, and we succeeded in banding quite a group of cutters together in the industry. But somehow or other we didn't stay together and that club fell

(Testimony of Bernard Appel.)

apart, and a small group of us remained and joined the International and Laurence was one of them. And that's how I know Laurence.

Q. Then you met Laurence prior to the time that you became a member of the International Ladies' Garment Workers' Union?

A. That's right, yes, in the club.

Q. And you didn't meet him in the union?

A. I met him in the club.

Q. What club did you meet him in?

A. I told you: The Cutters' Club. We formed the Cutters' Club.

Q. And where was that?

A. We used to meet in the Emiel Brown Building.

Q. What building?

A. The Emiel Brown Building. [2790]

Q. How do you spell that?

A. B-r-o-w-n. Emiel Brown. It is Ninth and Julian.

Q. Was that this Cutters' Club?

A. The Cutters' Club, yes.

Q. Club room?

A. Not a club room. We used to call ourselves the Cutters' Club, but we would meet not in the same place all the time. We would meet in Julian Street in a restaurant and sometimes meet in the Emiel Brown Building.

Q. Then you knew him socially before you were in any union?

A. No. Our club wasn't a social club.

(Testimony of Bernard Appel.)

Q. Well, you met him in restaurants?

A. Not restaurants. We held our meeting in a restaurant.

Q. I see. Well, what restaurant was this?

A. I beg your pardon?

Q. What restaurant were the meetings held in?

A. On Julian Street.

Q. Where?

A. On Julian between Eighth and Ninth.

Q. What was the name of it?

A. I don't know.

Q. And this was sometime in '29?

A. Yes. [2791]

Q. That you met him?

A. Yes; '29 and '30.

Q. And you met Mr. Laurence for the first time—
A. (Interposing): '29 or '30.

Q. Was it the early part of '29?

A. No. It couldn't be the early part because I came back in June of 1929 from homesteading.

Q. Were you friendly with him?

A. I wasn't friendly with him. I didn't know the man. I got acquainted with him.

Q. Did you become friendly with him?

A. Yes.

Q. And did you help organize this Cutters Club?
A. Yes.

Q. And did he help?
A. Yes.

Q. Worked alongside of you?
A. Yes.

Q. Together with you and others?
A. Yes.

Q. In organizing this club?

(Testimony of Bernard Appel.)

A. That's right.

Q. And then sometime in '30 you went into the——

A. (Interposing): International.

Q. (Continuing): —American Federation of Labor? [2792]

A. Right.

Q. That was the International Ladies' Garment Workers' Union?

A. That is right.

Q. And he worked with you and others?

A. Yes.

Q. In affiliating with this union?

A. Yes, sir.

Q. American Federation of Labor Union. Now, did you take a prominent part in bringing the Cutters' Club into the American Federation of Labor?

A. No more than the rest of them have.

Q. Did Mr. Laurence take a prominent part?

A. I wouldn't say he took any more prominent part than the rest of us.

Q. Were there any officers or anybody in charge?

Mr. Grossman: Of what? Of what, Mr. Myron?

A. No. We had no officers.

Mr. Myron: Well, the witness understands. He can answer it.

A. (Continuing): We cutters had no officers of our union.

By Mr. Myron:

Q. What is that? [2793]

A. We cutters had no officers of our union.

Q. Then there was no leadership in the club?

(Testimony of Bernard Appel.)

A. There was leadership.

Q. You all took a part and you all worked together? A. Yes.

Q. And you were all in favor of joining the International Ladies' Garment Workers' Union?

A. Right.

Q. And you went into the union?

A. Right.

Q. When you went into the union was it a local of the International Ladies' Garment Workers' Union? A. Yes.

Q. And what local was that? A. 84.

Q. And you and Mr. Laurence were members of that 84— A. (Interposing): Right.

Q. (Continuing): —Local? A. Right.

Q. And you were friendly? A. Yes.

Q. You got along all right? A. Yes.

Q. Worked for the benefit and best interests of the organization? [2794] A. Right.

Q. Was he an officer of that local?

A. No. If I remember right, I don't know whether he was an Executive Board member or not.

Q. What is that?

A. I don't remember. I mean, if you consider an Executive Board member an officer.

Q. Well, did he hold any official position?

A. Yes. He might have held Executive Board.

Q. Don't you know?

A. No. It's too long a time to remember.

(Testimony of Bernard Appel.)

Q. But he might have been a member of the Executive Board? A. He might have been.

Q. Were you? A. I was.

Q. And you don't know whether he was?

A. No.

Q. How many members in the Executive Board?

A. About 15.

Q. 15? A. Yes.

Q. And you knew Tommy Laurence?

A. Yes.

Q. From 1929, had worked with him and had worked hard [2795] to get into this American Federation of Labor organization? A. Yes.

Q. And you didn't know whether he served with you on the Executive Board?

A. Not at that time. I know he served as an Executive Board member time and time again, but I don't know at that particular time.

Q. Now, have you been a member of the I. L. G. W. U. since 1930? A. Yes.

Q. Continuously? A. Continuously.

Q. You never left the organization?

A. No, sir.

Q. And Mr. Laurence has been a member of that union? A. Yes, sir.

Q. Continuously?

A. Well, he would disappear at times for five or six—

Q. (Interposing): I am talking about membership.

A. I couldn't tell when he would leave.

(Testimony of Bernard Appel.)

Mr. Grossman: Just a moment!

A. (Continuing): When he would leave I have no knowledge when he left whether he remained a member or he didn't. He could have taken a withdrawal card.

By Mr. Myron: [2796]

Q. As far as you know he remained a member continuously? A. That's right.

Q. You don't want to leave the inference that he left the organization, do you? A. No.

Q. Do you?

A. I don't know; just as I say.

Q. When you said that he disappeared at times you don't want to leave any inference that he left the organization?

A. I wouldn't leave any inference. I merely say that I know and what I think. I don't know whether he has taken a withdrawal card or not.

Q. You don't know whether he has or not?

A. No. No, sir. I would have no interest in finding out.

Q. Well, at what time did he disappear? When, since 1930?

A. He disappeared about, possibly a year ago. He was a Business Agent then.

Q. All right. Is that the only time he disappeared?

A. No. He disappeared since he came back in this year.

Q. All right. Before a year ago did he disappear from [2797] the union?

(Testimony of Bernard Appel.)

A. I don't know. He has gone away for a few months. I didn't know where.

Q. And he returned?

A. And he returned, yes.

Q. Well, he certainly didn't leave the organization then, did he?

Mr. Grossman: Just a moment! I object to that question.

By Mr. Myron:

Q. Did he?

Presiding Inspector: If he knows.

A. I wouldn't know. I am telling you that he can take a withdrawal card.

By Mr. Myron:

Q. Well, after he, as you call it, "disappeared"—

A. (Interposing): Yes.

Q. (Continuing): —you saw him at meetings subsequently, didn't you?

A. When he came back he could have re-joined.

Q. And he participated in the meetings?

A. Yes, that's right.

Q. And, of course, if he had withdrawn he would have to re-join?

A. You don't have to re-join. He merely brings in his withdrawal card and he says "I am a member again". [2798]

Q. Oh, I see. Well, he never withdrew?

A. I beg your pardon?

Q. He never withdrew?

A. No.

(Testimony of Bernard Appel.)

Q. Did you ever disappear, or what you call "disappear"? A. No, sir.

Q. Now, in 1930 this Ladies' Garment Workers' Union was a member of the A. F. of L., is that right? A. Right.

Q. Now, did it change its affiliation at any time?

A. It did.

Q. Since 1930? A. It did.

Q. When?

A. About three years ago. We left the A. F. of L. and joined the CIO.

Q. Now, when you say "three years ago" you mean sometime in '38?

A. I couldn't say exactly. I would say '38 or '39. I know it is approximately three years ago.

Q. You don't know the approximate date?

A. No.

Q. Would you know the month?

A. No. I wouldn't know the month and I wouldn't be sure [2799] of the year. I know it is about three years ago, just approximately.

Q. And is it still a member of the CIO?

A. No. We left the CIO again and got back into the A. F. of L.

Q. When did you return to the A. F. of L.?

A. About a little better than a year ago.

Q. Do you know the date? A. No.

Q. The month? A. No.

Q. Have you been very active in the union?

A. I have, but those things are not very important, to me, at least.

(Testimony of Bernard Appel.)

Q. Do you attend meetings?

A. Oh, yes, I do.

Q. Regularly? A. Regularly.

Q. Was there any discussion about the transfer?

A. Our meeting attendance is compulsory.

Q. Was there any discussion about the transfer from the A. F. of L. to the CIO?

A. Yes, there was.

Q. And a subsequent transfer to the A. F. of L.?

A. Yes, there was. [2800]

But I still wouldn't remember the date.

Q. I see. A great deal of discussion about it?

A. Not so awfully great at the time of our transferring. It was a very routine job.

Q. That is from the A. F. of L. to the CIO?

A. Yes, and vice versa.

Q. No difference of opinion at all?

A. Oh, there was a difference of opinion, but there wasn't what I would call any very heated discussion on that.

Q. Some wanted to remain in the A. F. of L. I suppose? A. Oh, yes.

Q. And some wanted to join the CIO?

A. Oh, yes. But it wasn't in a very hostile spirit.

Q. But they asserted themselves on that question, on that issue? A. Yes, yes.

Q. Were you in favor of transferring to the CIO?

A. Well, I wasn't particularly favoring either side. I was satisfied the way it was.

(Testimony of Bernard Appel.)

Q. You didn't participate in the discussion?

A. I did, but—

Q. (Interposing): You didn't care what they did?

A. No. I wouldn't say I didn't care what they did, but it didn't matter much to me then.

Q. What were your views on the issue?

A. I beg your pardon? [2801]

Q. What were your views on the issue? How did you feel about it?

A. Well, I possibly favored going into the CIO, but there wasn't any hot feelings about it one way or the other way.

Q. You mean on your part?

A. I beg your pardon?

Q. You mean on your part?

A. Not on many others either.

Q. I am asking how you feel on your part?

A. No. My feelings weren't hot one way or the other.

Q. In other words, you didn't care whether you went into the CIO or whether you remained in the A. F. of L., is that right?

A. No. I would say I possibly favored the CIO; but it wasn't a very important thing in my mind either way.

Q. Now, from 1930 up to three years ago—that would be sometime in 1938—your union was affiliated with the A. F. of L.? A. Right.

Q. And at that time there was a discussion as to

(Testimony of Bernard Appel.)

whether you would disassociate yourselves from the A. F. of L. and go into the CIO?

A. Now, if you will permit me I am going to explain something.

Mr. Myron: You can answer the question "Yes" or "No." [2802]

Mr. Grossman: Just a moment!

Presiding Inspector: You will have plenty of time to explain. Just answer the question.

Mr. Myron: Will you read the question?

(The question referred to was read by the reporter as above recorded.)

A. That's right.

By Mr. Myron:

Q. Although you had been a member of the A. F. of L. for a period of eight years it didn't make any difference to you, although you did show or indicate a slight preference for the CIO, is that right?

A. I have, yes.

Q. Did you know Mr. Bridges at that time?

A. No, sir. I never met him. I didn't know Bridges.

Q. Had you heard of him?

A. I beg your pardon?

Q. Had you heard of him?

A. I heard of him.

Q. As a labor leader?

A. Yes, I heard of him.

Q. In what capacity?

A. What year are you referring to?

(Testimony of Bernard Appel.)

Q. At the time of this transfer.

A. You mean the transfer from the A. F. of L. to the CIO? [2803]

Q. That's right.

A. Yes. I have heard of him a great deal after we were in the CIO Council.

Q. I am talking about at the time of the transfer.

A. No, at the time of the transfer.

Q. At the time this discussion came up?

A. No, I don't remember his name having been mentioned.

Q. You never heard him mentioned?

A. I heard of him. I read of him in the papers occasionally, but beyond that I haven't heard of him in my union.

Q. Do you know him as a labor leader?

A. Yes, I heard of him.

Q. Do you know of him as a CIO organizer on the West Coast?

A. Well, I didn't know just what capacity he was in. I knew he was affiliated with maritime unions somewhere, somehow.

Q. Do you know that he left the A. F. of L. to go into the CIO?

A. No, I didn't believe I have.

Q. You didn't know any of those things?

A. No.

Q. Did you know that he was advocating the change to the CIO? [2804]

A. Well, I knew after he was in the CIO. I heard of him being in the CIO.

(Testimony of Bernard Appel.)

Q. I am talking about the time of this discussion. A. No, I didn't.

Q. About the transfer from the A. F. of L. to the CIO? A. No, no. I really didn't know.

Q. You didn't know him then? A. No.

Q. Did you know that Mr. Bridges was interested in CIO at that time?

A. Yes, I heard that he was.

Q. Now, I am limiting this time to the time of the discussion in the union between those members who believed the union should stay in the A. F. of L. and those who believed that it should go CIO. At that time? A. At that time what?

Q. Did you hear of Mr. Bridges?

A. No. We had no occasion to hear of Mr. Bridges then.

Q. Did you ever hear his name discussed in the meetings?

A. Not up to then; not up until after we joined the CIO Council.

Q. Was his name discussed when the Union members spoke of the change to the CIO?

A. I don't remember having heard his name mentioned then. [2805]

Q. Well then, as far as you know he was unheard of at the time of this change?

A. I would say I didn't hear of him then until after we changed.

Mr. Gladstein: Just a moment! I wish to make an objection first of all to the question upon the

(Testimony of Bernard Appel.)

ground that it calls for the conclusion of the witness as to whether other people had heard of him.

Mr. Myron: That is what I am asking for.

Presiding Inspector: He is asking whether he heard of him. I think it is subject to that interpretation.

Mr. Gladstein: If it is subject to that interpretation, I have no objection. But if your Honor will hear the question again—

Presiding Inspector (Interposing): Of course, he can't testify as to what was heard by other people because unless they told him—

Mr. Gladstein (Interposing): That's the question. Can we have that question read?

Presiding Inspector: I think the—

Mr. Gladstein (Interposing): Could we have the question read, your Honor?

Presiding Inspector: I know it is somewhat ambiguous.

(The question referred to was read by the reporter as above recorded.) [2806]

Presiding Inspector: That means as far as he knew by hearing.

A. (Continuing): I heard the name Bridges but, I mean, we did not have any occasion to discuss Harry Bridges up until the time we had joined the CIO Council. From that time on we have heard of him.

(Testimony of Bernard Appel.)

By Mr. Myron:

Q. Did you hear the name Bridges discussed in these meetings of the union at that time?

A. I don't remember.

Q. You don't remember?

A. No, sir. I have heard a great deal, his name mentioned, after we joined the CIO.

Q. Of course, I haven't asked you that.

A. Well, that is what I am answering you.

Q. But you didn't hear it discussed in the meetings?

A. I don't remember.

Q. Was Communism discussed in these meetings?

A. Oh, occasionally.

Q. Just occasionally?

A. Just occasionally.

Q. By the members?

A. By some members.

Q. How many?

A. A few; very few. [2897]

Q. And what was said about Communism?

Mr. Grossman: Just a moment! I am going to object to that.

A. There was nothing said about Communism.

Mr. Grossman: Just a moment! I am willing to be patient, but I certainly can't see any conceivable relevance as to whether the union does or does not discuss Communism.

Presiding Inspector: I don't see that there is much importance to it, but if you would like to ask that—

(Testimony of Bernard Appel.)

Mr. Myron (Interposing): I would like to ask this, your Honor. This is a preliminary question.

Presiding Inspector: This is to get him started.

A. (Continuing): We didn't discuss in our Local, when you questioned about Communism, Communism. It was a question where one group would call another group of people "Communists" because of disagreement in policy? That's about all. But we had no occasion to discuss Communism in any sense at all [2808].

By Mr. Myron:

Q. Then, if I understand you correctly, the only time you discussed Communism was when you discussed some policy of the Union, is that right?

A. Yes; when we discussed the policy and some members would suggest a certain policy, and the other faction would disagree and call the others, "Communists."

Q. Of course, you consider a change from the A. F. of L. to the C. I. O. as a policy of the Union, wouldn't you?

A. Well, to be truthful it wasn't much up to us.

Q. It wasn't up to you?

A. No, sir. It works in the following way—it is very harsh but true: When the national officers determine the policy the voting is more or less of a routine affair. It is understood that we are expected to go into the C. I. O. and we go into it; and when they decided to jump out of the C. I. O. into

(Testimony of Bernard Appel.)

the A. F. of L. again the same thing took place. So it is just a routine job.

Q. Then the vote of the local doesn't mean a thing? A. It doesn't seem to be.

Q. It is all cut and dried before the vote is taken?

A. It is more or less cut and dried.

Q. By the officers?

A. By the general officers.

Q. And whatever they say they can put across in the [2809] locals?

A. Put across; yes.

Q. I see. And there is not much trouble in the locals in putting across a policy?

A. There might be a little fight against it.

Q. That probably comes from the group opposed to Communism and they get up and raise a holler about it?

A. No; some groups who are not interested in the best interests of the workers in the Union.

Q. Of course, the best interests of the workers would mean those who are opposed to Communism, isn't that right? A. Possibly so.

Q. Those would be the ones that would oppose these policies being put through in a cut and dried policy?

A. I don't know how you place that.

Mr. Grossman: Just a minute. Mr. Myron has referred to two policies, going in the C.I.O. and going out of it. I would like to know which policy he is referring to now.

(Testimony of Bernard Appel.)

Presiding Inspector: He probably means both.

Mr. Grossman: Communists on both sides?

Presiding Inspector: At different times.

Mr. Grossman: With that clarification—

Presiding Inspector: I am not sure that it clarifies.

By Mr. Myron:

Q. Do you believe a Communist could be a good union man? [2810]

A. I haven't looked at it from that angle at all. I am not examining my brothers in my union from the political or religious standpoint at all.

Q. Communism, in your opinion, is a religion?

A. No—I didn't say that. I said I am not examining my brothers in the union from a political or religious angle. I am examining them as unionists.

Q. That is in answer to my question of whether you consider that a Communist could be a good union man, and that is your answer?

A. I think he can.

Q. You think he can?

A. I think he can.

Q. I see.

A. Just as much as a Republican or Democrat can.

Q. Is Communism, in your opinion, a religious or a political party?

A. I don't know what it is; I am not familiar with it.

Q. But you wouldn't oppose Communism, or Communists dominating your union, would you?

(Testimony of Bernard Appel.)

A. Well, I wouldn't want any one particular group dominated.

Q. You wouldn't oppose it if a Communist leader spoke on a certain subject or policy of the union?

A. You mean just what policy? [2811]

Q. Any policy?

A. I couldn't stop him if I wished. He has a right to the floor.

Q. He has a right to the floor?

A. If he spoke, and he would talk about union activities, I couldn't stop him, oppose him.

Q. Do you know Mrs. Fay Appel?

A. Mrs. Fay Appel—no.

Q. You don't know a Mrs. Fay Appel that lives on Normandie Avenue in Los Angeles?

A. No, sir. I have no relations at all in Los Angeles excepting my brother.

Q. Are you a member of the Communist Party?

A. No, sir.

Q. Have you ever been a member of the Communist Party? A. No, sir.

Q. Have you ever attended any meetings of the Communist Party as far as you know?

A. No, sir.

Q. Are you a member of the League against War and Fascism? A. No, sir.

Q. Are you a member of the League for Peace and Democracy? A. No, sir.

Q. Are you a member of the League for American Mobili- [2812] zation?

(Testimony of Bernard Appel.)

A. I am not a member of any organizations except what I gave you.

Q. Let's go back a moment to the time that you became naturalized. That was in what year?

A. 1916.

Q. 1916?

A. I think that is the year; I believe that is the year.

Q. Were you ever a member of the Needle Trade Workers Industrial Union?

A. No, sir.

Q. You never were a member of that union?

A. No, sir.

Mr. Myron: I wonder if we could have a recess at this time?

Presiding Inspector: Yes. We will take a short recess.

(Whereupon a short recess was taken.)

Presiding Inspector: Proceed.

By Mr. Myron:

Q. Mr. Appel, were you a conscientious objector at the time you became naturalized?

A. No, sir.

Q. You were not?

A. You mean—I had no occasion to be. We weren't at war then. [2813]

Q. You were not. Did you hold those views as a conscientious objector at that time?

A. No, sir, not at that time.

Q. You did not at that time?

A. No.

(Testimony of Bernard Appel.)

Q. When did you begin to hold those views?

A. Well, I sort of took stock. I know that I was taught religion at home and I had been taught——

Q. (Interposing) I said "When" and not "How".

A. Well, shortly after I became a citizen I read about the war and all it meant, and I took stock. We don't always do——

Q. (Interposing) Was this in 1916, 1917 or when?

A. It was—I believe I took out—I would say at the end of 1916.

Q. Right after you became naturalized?

A. Not right after; quite a while after.

Q. You became naturalized in 1916?

A. Yes.

Q. It was in the same year then?

A. I would say possibly 1916 or the early part of 1917.

Q. When was the first time that you heard Mr. Laurence make any reference to Mr. Bridges?

A. That was after we had joined the C.I.O. Council. We got out of the A. F. of L. and we formed a C. I. O. Council and [2814] Laurence was one of the delegates to that C. I. O. Council from our local.

Q. He was a delegate to the C. I. O. Council?

A. He was a delegate to the C. I. O. Council from our local.

Q. Were you? A. No, sir.

(Testimony of Bernard Appel.)

Q. When was that, the approximate date?

A. Well, if it is three years ago I would say about two or three months after we were in the Council.

Q. It was immediately after the union joined the C. I. O.?

A. No. I tell you it couldn't be immediately because, according to our instructions from the national office our delegation in the A. F. of L. Central Council were to stay in so long, that is, until the A. F. of L. finally told us to get out.

Q. Those were the instructions through your union? A. Yes.

Q. And it was at that time that—

A. (Interposing) Then when we were asked to get out we formed a C. I. O. Council and Laurence was a member of that Council. And within about two or three months' time he seemed to have had differences with the activities of the Council and he connected his troubles with Bridges.

Q. Did he oppose the union going C. I. O.?

A. Not that I know of. [2815]

Q. Did you know whether he took part in the debate in the union meetings in that regard?

A. He may have, but I don't believe he took an opposing view.

Q. He never said anything as far as you know at the union meetings about the change to the C. I. O.?

A. I haven't heard him oppose it at least I don't remember it.

(Testimony of Bernard Appel.)

Q. Was there some discussion in those meetings about not going C. I. O. because of the Communist influence?

A. No. I told you before that it is just a routine matter as far as the locals are concerned.

Q. You told me that, but now I want to know if there was any discussion at all in the union meeting.

A. There was a discussion, but I couldn't say whether Laurence was for or against the question.

Q. And after the union went C. I. O., and before it came back to the A. F. of L. did Laurence participate in any discussions regarding the transfer back or remaining in the C. I. O.?

A. No. I told you, and I tell you again, after he was in the Council about two or three months, he seemed to have had a great deal of difference about the way things were carried on in the C. I. O. Council. He made a number of talks on the floor of our local and he was very hostile towards Bridges because he attributed all of the differences in the Council to [2816] Bridges.

Q. What differences were they that he spoke about?

A. I couldn't tell you what they were now.

Q. Well, can't you—

A. (Interposing). Well, one of the things I remember, he stated, and he stated it in a very violent manner, he said that the, I believe, the Chairman of that Council was Bridges' appointee.

Q. Who was the Chairman of that Council?

(Testimony of Bernard Appel.)

A. I don't remember the name.

Q. He stated vehemently that the Chairman of that Council was Harry Bridges' nominee; is that right?

A. Yes.

Q. And he opposed that, the Chairman?

A. He opposed the Chairman.

Q. That was one of the differences that he had with Bridges?

A. Yes.

Q. Now, were there any others?

A. Well, there was a matter of policy, but just what that policy was I certainly couldn't say because I had nothing to do with it.

Q. What was the policy—don't you remember?

A. I don't know, I am telling you, what he took up in there. I didn't know because I had no connection with the [2817] Council.

Q. Well, you mentioned here there were some differences.

A. Yes, but what they were I don't know.

Q. How do you know there were any differences?

A. Well, I know because he was very hostile towards Bridges. That is what I am telling you.

Q. Based on differences?

A. On differences in policy in the Council.

Q. And you don't know what that policy was?

A. No, sir—one of them I mentioned to you.

Q. You don't know what Mr. Bridges' position in that regard was?

A. No. I didn't pay any attention.

(Testimony of Bernard Appel.)

Q. And you don't know what Mr. Laurence's position was except that he opposed Mr. Bridges?

A. That is, excepting that he was hostile toward him because he disagreed with his.—

Q. (Interposing) Policy?

A. Not policy—I don't know—the appointment of a Chairman, or the election of a Chairman.

Q. That was one, and the other was in regard to some policy?

A. I don't know what the other one was.

Q. But it was in regard to some policy?

A. Yes. [2818]

Q. And he opposed Mr. Bridges? A. Yes.

Q. And there were differences, is that right?

A. Yes.

Q. Now, when was the first time that he made any of the remarks which you stated he made yesterday?

A. He made them, I would say, about four or five months after he was in the Council.

Q. And that was in the course of discussing his opposition to Mr. Bridges on some policy?

A. Yes. He would tell me, for instance, about some of the activities in the Maritime Union, but I am not familiar with the set-up of the Maritime Union so after he told me I didn't know what it was all about. He just might as well have talked about chemistry. I didn't know the set-up and didn't understand what he was referring to.

Q. You didn't understand Mr. Laurence?

A. I didn't understand his explanation that this

(Testimony of Bernard Appel.)

and that was done in the Maritime Union; and not understanding the set-up I certainly didn't understand what he was really referring to. Furthermore, he was talking on a subject I wasn't familiar with and I couldn't understand it.

Q. You don't know anything about what constituted his opposition to Mr. Bridges, except that it was in regard to some of Mr. Bridges' policies?

[2819]

A. That is right.

Q. Now, you stated also that he was opposed to Communism, vehemently opposed to Communism?

A. Who was?

Q. Mr. Laurence.

A. He became so on that subject; yes. He was a Communist himself at one time.

Q. He had an obsession in that regard, didn't he?

A. He did.

Q. And he opposed anything that resembled Communism in policies of the Union?

A. Well, I don't know about that. He would oppose anything and anybody that was of a different opinion from him.

Q. And, of course, he opposed any policy which he thought might be started or instigated by the Communist Party, isn't that true?

A. He would.

Q. And if he thought that—strike that out. Did he say at times that he opposed a certain policy because he thought that it was the policy of the Communist Party?

A. He did.

(Testimony of Bernard Appel.)

Q. And that policy at times was the same policy that Harry Bridges advocated?

A. Well, he would accuse Harry Bridges of being Communist dominated. That is about all.

[2820]

Q. And he opposed the policy and Harry Bridges' advocacy of the policy, is that right?

A. That is right.

Q. Now, when was the second time that you talked with Laurence?

A. I had a number of talks with him.

Q. How many? A. Dozens of them.

Q. They were all in this—

A. (Interposing) All in this vein. He seemed to have had a streak in his mind, and was always pointing his conversation to Communists and Bridges. It seemed to be sort of a phobia with him.

Q. During your relationship with Mr. Laurence, over a period of eight or ten years, did you know that he was a member of the Communist Party?

A. For a long time I didn't know.

Q. Did you, during that period of time?

A. I did; yes.

Q. When did you first find out he was a member of the Communist Party?

A. I would say possibly seven years ago.

Q. That would be about 1933, 1934?

A. Yes; about.

Q. You found out that he was a member of the Communist [2821] Party?

(Testimony of Bernard Appel.)

A. Yes. He told me he was, told me that when he left the Party. I don't know what year it was. I mean after he left he told me that he was a member of the Communist Party.

Q. Was that the first time that you knew it?

A. Yes, sir.

Q. And you think that was about seven years ago?

A. I think so. I wouldn't say for sure, because we had so many conversations, and it don't mean anything particularly to me to remember dates along that line. I merely assumed it was then.

Q. I just want your best recollection.

A. I would say maybe then.

Q. Now, how did he come about to tell you that he was a member of the Communist Party?

A. Well, he criticized some of the members whom he accused of being Communists and naturally, like I said before, he would never connect the word "Communist" without using the words "son of a bitch". He said, "I used to be one of them, but I am no more."

Q. When he would oppose some policy in the union, or some member who was advocating a policy in the union, he would refer to them as a "Communist"? A. Yes.

Q. In a little stronger language than that?

A. Yes. [2822]

Presiding Inspector: He said that.

(Testimony of Bernard Appel.)

By Mr. Myron:

Q. Did you know of any other members of your union as being Communists?

A. No. I didn't know just whether they were members of the Party or not. I couldn't say of a single one.

Q. He was the only one who told you?

A. Yes.

Q. You wouldn't have known he was a Communist had he not told you, is that right?

A. That is right.

Q. And, of course, in opposing the policies advocated by Mr. Bridges he at times referred to Mr. Bridges as a Communist?

A. No, he didn't say that. He said he was Communist dominated. I asked him that question, whether he knew if Bridges was a Communist or not, and he said, "No." But, he said, "He is surely Communist dominated."

Q. That he was Communist dominated. And he said that the policies Mr. Bridges was advocating were Communist dominated policies, is that right?

A. That is what he said. He said the same thing about Lewis.

Q. I didn't ask you that, did I?

Mr. Gladstein: If your Honor please, I object to the [2823] question as being argumentative.

Presiding Inspector: What question?

Mr. Gladstein: The question asked by counsel now is argumentative.

(Testimony of Bernard Appel.)

Presiding Inspector: I don't remember what it was. It was answered.

Mr. Gladstein: The first question to which an answer was given I do not object to, but the last question was "I didn't ask you that, did I?" and the record will show that.

Presiding Inspector: I didn't think you were referring to that.

Mr. Gladstein: Yes.

Mr. Myron: It isn't argumentative.

Presiding Inspector: I don't think it is argumentative.

Mr. Gladstein: All right.

Presiding Inspector: Go ahead.

By Mr. Myron:

Q. Of course, you knew at that time that Mr. Laurence had been a member of the Communist Party, didn't you? A. That is right.

Q. And, of course, having been a member of the Communist Party you knew that he probably knew the members of the Communist Party?

A. I wouldn't assume that because I didn't know whether we had any Communist members in our local or not. [2824]

Q. But, I say, having that background of knowledge that he had been a member of the Communist Party it was likely that he knew who were members of the Communist Party, isn't that true?

A. Not necessarily.

Mr. Gladstein: Just a moment. I object to the question.

(Testimony of Bernard Appel.)

Presiding Inspector: I don't think that is a question for evidence. I think we can draw that conclusion as well as he—and the opposite.

Mr. Myron: I will withdraw the question.

By Mr. Myron:

Q.—Did he at any time state that he knew that certain policies that were advocated in the Union meetings were dominated and controlled by the Communist Party? A. No.

Q. He didn't say that?

Mr. Grossman: Just a moment. For one, I can't understand how a policy can be dominated by the Communist Party. Perhaps I don't understand.

Mr. Myron: The witness has told you how.

Presiding Inspector: I will allow it.

Mr. Grossman: I object to the question as being ambiguous.

Presiding Inspector: Read the question.

(The question referred to was read by the reporter as [2825] above recorded.)

Presiding Inspector: I think that is a little ambiguous. Rephrase it.

Mr. Myron: I will withdraw the question and rephrase it.

By Mr. Myron:

Q. In discussing the issues before the Union at any time did Mr. Lauspee state to the Union members that such and such a policy, which was being advocated, was dominated and controlled by the Communist Party?

(Testimony of Bernard Appel.)

Mr. Grossman: I make the same objection.

Presiding Inspector: I don't suppose the policy can be dominated. You mean was a policy favored or advocated by the Communist Party, is that what you mean?

Mr. Myron: That is right.

Presiding Inspector: With that interpretation I will allow it. You may answer.

Mr. Myron: I will amend my question to that effect.

Presiding Inspector: Let me put it this way to you? Did he state that the policies which he was criticizing were policies of the Communist Party, or advocated by Communist members, members of the Communist Party?

The Witness: He would say that.

By Mr. Myron:

Q. Now, who was present at the time that Mr. Laurente referred to Mr. Bridges in the manner you stated?

A. It was only he and I. [2826]

Q. Just the conversation between the two of you?

A. The two of us, yes. And he made a similar statement. There was another fellow by the name of Milton Snipper. He made at that time a statement that he would do anything in the world to get Bridges out of the union, and I was there. He said that up in the union. Snipper was standing there and so was I. He used to converse with me a great deal before meetings or used to hang around

(Testimony of Bernard Appel.)

by the union because he wasn't working very regular.

Q. Mr. Laurence? A. Yes.

Q. You mean Mr. Laurence? A. Yes.

Q. And you say one of those conversations took place with you alone? A. Yes.

Q. Being present? A. Yes.

Q. Is that right?

A. A number of times the same thing.

Q. A number of times?

A. A number of times he would sort of—

Q. (Interposing) Well, at any time was any other person present?

A. No. Just this one case where he said he would do anything to get Bridges out of the union. Milton Snipper was [2827] there talking to him and I was there.

Q. Who is Milton Snipper?

A. He is a cutter.

Q. Where does he work?

A. In the same building as I do. He works as a cloak cutter, too.

Q. Where is that?

A. 217 East Eighth Street.

Q. And where does he live?

A. I don't know his address.

Q. Does he live in Los Angeles?

A. Yes, sir.

Q. And could you give us the approximate date of the time when he mentioned this, when this man was present?

(Testimony of Bernard Appel.)

A. Just a few weeks ago.

Q. Well, was it—

A. (Interposing). I couldn't tell you just how many, but not so long ago. You know, these are conversations that a man, a person that is going over them again and again don't pay any particular attention to dates, days or months. But I know it was in the recent, you know, weeks, or a couple of months.

Q. A couple of weeks ago?

A. Oh, more than that. It was before he came down here. So I don't know how many weeks ago he was here. [2828]

Q. Before who came down here?

A. Laurence was in San Francisco.

Q. I see. Before he came down here to testify?

A. Yes. That was a few weeks before then and I don't know how many weeks ago he was here, so I really don't know.

Q. Have you talked with him since that time?

A. No, sir.

Q. Do you know whether he was coming down here to testify at the time you talked to him?

A. No, sir.

Q. Did he tell you?

A. No, sir. In fact, I haven't seen him since that time because he seemed to work in the other part of the City. I believe he is working for the Red Cross now and that isn't in my neighborhood, so I didn't see him.

(Testimony of Bernard Appel.)

Q. Well now, referring to this meeting at which this gentleman was present will you give us the entire conversation as you remember it?

A. We were talking about war and activities in the union and something he said about what is taking place now in the maritime unions, I believe, pertaining to the, if I remember right, signing an agreement of non-strike or something like that, and at that time he passed that remark.

Q. Was that the entire conversation?

A. No. We talked about unions and organizing shops and [2829] then we get off and talk about the war, and when we are through with the war he brings up a question along these lines. It is not a one-sided, smooth conversation where we only talk about one topic.

Q. Did you tell him that you were a conscientious objector then? A. Yes, I did.

Q. Was that what the conversation was about?

A. Oh, not now. I didn't tell him that now.

Q. You what?

A. I didn't talk with him about that now.

Q. No, not now. I am referring to that meeting that you are speaking about.

Presiding Inspector: He is now saying that this statement that he made to Laurence, that he was a conscientious objector, was at some other time.

The Witness: A long time ago. It was possibly eight or nine years ago.

Presiding Inspector: I think you are questioning about a single conversation.

(Testimony of Bernard Appel.)

Mr. Myron: That's right.

Presiding Inspector: And the witness assumed that you were talking about a broader field.

Mr. Myron: All right.

By Mr. Myron: [2830]

Q. Now, let us limit it to the conversation with reference to Bridges. What was said by you and what was said by him?

A. I can't say anything about Bridges, as I told you before. I don't know the man's connection in the maritime—

Q. (Interposing) I am not asking that. I am asking what was said by you or what was said by him or what the other fellow said who was present at that meeting.

A. We began to talk about the war.

Q. Yes.

A. And saying about how things looked pretty bad, and then we were talking about the policy of the United States and he would hop out and say how terrible it was that Russia has made a non-aggression pact. He would say again "Those Communists have certainly lived up to their record. They have made an agreement with Germany". And then he would jump again. He would say "That's this Communist Bridges!" He mentioned something about signing some kind of agreement with employers, pertaining to no strike or something like that.

Mr. Del Guercio: If the Court please, I object

(Testimony of Bernard Appel.)

to counsel's smiling and doing—I have observed him throughout while this witness was talking. Has the Court observed it?

Presiding Inspector: I can't control the facial expressions.

Mr. Del Guercio: I know that can't be done! I know [2831] how impossible that is.

Mr. Grossman: We can explain why we can't refrain from smiling.

Presiding Inspector: Go ahead.

By Mr. Myron:

Q. Is that the entire conversation?

A. That's all.

Q. At that meeting?

A. Yes, that's all. You see, I can't go in and repeat it.

Q. That was all about Harry Bridges?

A. Yes.

Q. Is that right? A. Yes.

Q. At the time that this gentleman was present there was no such profane language used as you used yesterday?

A. No. He just said that he would do anything to get him out of the labor movement.

Q. And that was all? A. That was all.

Q. Now, the other conversations were personal conversations with you? No one else was present?

A. That's right.

Q. Is that right? A. Yes.

Q. Let's see! You said that you had a wife and two [2832] children? A. Right.

(Testimony of Bernard Appel.)

Q. What is your wife's name?

A. Ida.

Q. Ida?

A. Ida.

Q. Appel?

A. Yes.

Q. And what are the names of your two children?

A. Albert and Robert.

Q. How old is Albert?

A. Albert, he'll be 18 the end of July.

Q. Does he attend school?

A. Yes, sir; High School.

Q. Where?

A. In Mark Keppel High.

Q. What school?

A. Mark Keppel High.

Q. And Robert, you said, is the other one?

A. Yes. He goes to the same school.

Q. And how old is he?

A. Sixteen and a half.

Q. And does he attend school?

A. Yes, sir.

Q. Where? [2833]

A. The same High School.

Q. Do you have any other near relatives; I mean, brothers or sisters in Los Angeles, California?

A. I have one brother, I believe he lives up here in Frisco; and one is traveling and one has a dress shop in Los Angeles.

Q. And what are their names? Take first the man you mentioned first, the one living in San Francisco.

A. In San Francisco it is Sidney Appel.

Q. Sidney Appel?

(Testimony of Bernard Appel.)

A: Yes. I don't know where he lives here, but, as far as I know, he is in San Francisco.

Q: And you have another one living where?

A: In Los Angeles; Sam Appel.

Q: Where does he live?

A: On Thirty Eighth Street near Broadway. I don't know his address. I know his home. I have been there a number of times.

Q: And a third brother?

A: The third brother travels. Leo Appel.

Q: You don't know where he is located?

A: No. He is traveling.

Q: Any other family here? A: Not here.

Q: Brothers and sisters?

A: Not here. I have a brother back East in Cincinnati. [2834] Eugene Appel; and I have a sister in Brooklyn, New York, Pauline Appel.

Q: That is your entire family?

A: Yes, sir.

Q: Do you know of any Oscar Appel?

A: No. There are Appels in—a few of them in Pasadena and a few of them in Los Angeles, but they are not related to us at all.

Q: There are no relatives of yours by the name of Oscar Appel? A: No, sir.

Q: Have you ever used an alias?

A: No, sir.

Q: You never used a different name?

A: No, sir. That's my name ever since I was born.

Q: When were you first called here to testify?

(Testimony of Bernard Appel.)

A. When was I called?

Q. Asked to testify in these proceedings?

A. I wasn't asked to testify.

Q. Well, how did you happen to come up here to testify?

A. If you will permit me I will tell you.

Q. Sure, explain it.

A. Having had these conversations with Laurence I didn't think that, being that he told me the things that [2835] he has, that he would testify because he told me he would lie, and so on, and so forth. I thought it was merely a threat on his part, a sort of hatred on his part. But being that he told me that he would even lie, and so on and so forth, I happened to read in the paper that he testified here, well, after—

Q. (Interposing) Is that the first time that you had heard that he had testified?

A. I beg your pardon?

Q. Is that the first time that you had heard that he had testified?

A. That's right. That's the first time I heard. I read it in the paper.

Q. When was that in the paper? Was that at the time he was on the stand testifying?

A. No. I read it the following day in the Daily News. I get the Daily News every morning and I happened to read about his testimony. Well, I didn't—I kind of thought over the matter and then it dawned on me it would be unfair to me not to

(Testimony of Bernard Appel.)

come and testify or what I know or what Laurence told me.

Q. So you volunteered your services?

A. I volunteered my services.

Q. With whom did you get in touch?

A. I got in touch with Charlie Katz.

Q. Who?

A. Charlie Katz, an attorney in Los Angeles. I was directed to him by Lutzky, who is the Manager of our union. [28336]

Q. Lutzky? A. Lutzky, yes.

Q. How do you spell that?

A. L-u-t-z-k-y. I told him about it.

Q. Then he told you to go to this attorney?

A. He told me, if I wish to make testimony to the effect what Laurence say, I should go up to Charlie Katz. And I did. And that's all I heard of it. Then I was asked whether I would care to come down and testify, and I said I would. And that's all there was.

Q. When were you asked to come down and testify? A. Saturday.

Q. Saturday? A. Yes.

Q. What time?

A. Well, I received a telegram to come down to Charlie Katz' office. I got there about, I would estimate, around one o'clock. You see, I don't remember what bus I took, because I have to take a bus to come into Los Angeles, and—

Q. (Interposing.) What time did you receive the telephone call?

(Testimony of Bernard Appel.)

A. I was away from home talking to—

Q. (Interposing) No. What time did you receive the telephone call, if you can state?

A. Not telephone. I had no telephone. A telegram.

Q. A telegram. What time did you receive that? [2837]

A. I wasn't home at the time the telegram came. I was visiting with Barney Barris, a friend of mine who belongs to the same Legion Post as I do, and when the telegram came my wife called me up there, being I told her that I am going there, that I have a telegram. I came there and read the telegram to come to Charlie Katz, which I did. I called him up and told him to wait for me because I am depending on the bus service. And he waited for me and he told me that if I would care to come and testify, and I said I would. And right away he told me to—I might have to go Saturday night to be in San Francisco for the hearing Monday.

Q. After you spoke to Mr. Katz you left and came here to testify, is that right?

A. Then I met Mr.—he told me to meet Mr.—one of the gentlemen here. I will tell you in a minute.

Q. Well, you met him and came here and testified?

A. Yes, that's right.

Mr. Myron: I think that is all.

Mr. Gladstein: Just one question.

(Testimony of Bernard Appel.)

Redirect Examination

By Mr. Gladstein:

Q. The attorney that you have mentioned, Charlie Katz, do you know whether he is the attorney for the union of which you and Mr. Lutzky are members?

A. To my knowledge he was. I don't know if he still is the attorney. [2838]

Mr. Gladstein: I think that is all.

Presiding Inspector: That is all.

(Witness excused.)

Presiding Inspector: Next witness.

Mr. Del Guercio: If the Court please, I believe it was in the early part of the week we said that we have a witness who would appear. We have brought the witness from New York.

Presiding Inspector: Oh, yes. Is she here?

Mr. Gladstein: I didn't hear it.

Presiding Inspector: You remember that there was to be an identification of a document. They brought a witness on from New York because it was necessary to identify the document.

Mr. Gladstein: Well—

Presiding Inspector: (Interposing) I am going to allow her to take the stand now.

Mr. Gladstein: May I ask the Court this? Ordinarily we would have no objection.

Presiding Inspector: They have a witness from New York that you forced to come on. I will hear her first.

Mr. Gladstein: Very well.

Presiding Inspector: Call the witness.

It was a purely formal matter and you wouldn't consent to it being introduced without the verification, which was your right, and they brought this witness from New York and we will [2839] hear her now.

Is she here, Mr. DeGuercio?

Mr. Del Guercio: Yes, she is. She is in the witness room. The witness room, as you know, is quite a ways from the Court.

ETHEL MULLANY

called as a witness on behalf of the Government,
being first duly sworn, testified as follows:

Direct Examination

By Mr. Del Guercio:

Q. Will you state your name, please?

A. Ethel Mullany.

The Reporter: Spell it, please.

A. E-t-h-e-l M-u-l-l-a-n-y.

By Mr. Del Guercio:

Q. Where do you reside, Mrs. Mullany?

A. In Brooklyn, New York.

Q. Are you married or single? A. No.

Q. Single? A. Single.

Q. What is your occupation?

A. I am manager of the booking department of Madison Square Garden.

Q. And how long have you held that position?

A. Oh, about ten years.

(Testimony of Ethel Mullany.)

Q. And what are your duties in connection with that [2840] position?

A. Well, I arrange for the leasing of the Garden, write the contracts, leases, make arrangements for set-ups and personnel to handle the meetings and things of that sort.

Q. And do you also dictate or write the correspondence relating to the rental of the Madison Square Garden?

A. Most of it, yes.

Q. Miss Mullany, I will show you what appears to be some original correspondence with relation to the rentals or leasing of the Madison Square Garden for a meeting, the first one for a meeting, on December 16, 1936, and ask you if you participated in the preparation of that lease?

A. Yes, sir. I made this out.

Q. What was that lease for? Will you explain what the lease was for?

A. It was for a meeting to be held under the auspices of a committee known as the Joint Strike Committee of Seamen.

Q. And with whom did you discuss or make the arrangements for the leasing of the Madison Square Garden for that purpose?

A. David Leeds.

Q. David Leeds. Was anyone else present?

A. No, not to my recollection.

Q. Do you know David Leeds?

A. Yes, I do.

Q. Did he sign that lease? [2841]

A. Yes, he signed it.

Q. Who is David Leeds?

(Testimony of Ethel Mullany.)

A. David Leeds is the Treasurer of the Communist Party of the State of New York.

Q. How do you know that, Miss Mullany?

A. Because I have made out other leases which he has signed and made them out to the Communist Party.

Q. I will show you a number of original leases for the rentals of the Communist Party—for the rental of the Madison Square Garden signed by David Leeds, signed "Communist Party of New York State, David Leeds, Treasurer", and ask you to look them over and state whether those are the leases to which you refer?

A. Yes, I made those out.

Q. Referring particularly, Miss Mullany, to the leasing of the Madison Square Garden for the date of December 16, 1936, are you sure that no one else appeared excepting the David Leeds you mentioned?

A. No, sir; no one else connected with that committee.

Q. Did you have any conversation with him before preparing the lease?

A. Why, my recollection is that over the telephone he called and reserved the Garden, and then I made out the lease and mailed it to him.

Q. And was any discussion had as to the amount to be [2842] paid for the lease?

A. Oh, certainly.

Q. And was any discussion had as to who was

(Testimony of Ethel Mullany.)

going to pay for it and who was to be held responsible for payment of the money?

A. I don't recall that, but knowing that Mr. Leeds had done business with us before on the previous meetings I presume that he would see that the Garden Corporation was paid the rent.

Q. Did you look to or did the Madison Square Garden Corporation look to anybody else but David Leeds for the payment of the rental?

A. Well, we didn't have to, because the next day he came back with the lease and the check in payment of it.

Q. Oh, he came back the next day. What kind of a check did he give you?

A. Well, according to my records there it was a check made out by him and signed by him. That is, I don't say it was made out by him, but it was signed by him.

Q. It was signed by David Leeds?

A. That's right.

Q. And what amount? Would these records refresh your recollection?

A. No. It was \$3,500. He paid the full amount of the rent.

Q. Do you know on what bank it was drawn?

[2843]

A. The Amalgamated Bank.

Q. Do you know if that bank handles all of the funds of that Party?

A. I can't say it handles "all" of them, or I don't know whether it handles—it handles the ac-

(Testimony of Ethel Mullany)

count that Mr. Leeds draws on, I believe. I don't know whether he has any other account or not.

Q. Were the payments of the rentals or leases of the Madison Square Garden for these other meetings that you have looked at, were the checks also drawn on the bank that you mentioned?

A. I can't say that they "all" were.

Q. Would these records show?

A. No, these leases would not show.

Mr. Del Guercio: If your Honor please, I offer in evidence the lease that this witness has identified as having been executed by David Leeds or D. Leeds for the rental or the leasing of the Madison Square Garden for the date that is December 16, 1936, and also the correspondence relating thereto.

Presiding Inspector: I will receive it.

Mr. Del Guercio: And ask that a photostatic copy thereof be substituted.

Presiding Inspector: Yes. Treat it as the other Exhibits were.

(The document referred to was received in [2844] evidence and marked Government's Exhibit 260.)

Mr. Del Guercio: I also offer in evidence the various leases for the renting or the leasing of the Madison Square Garden on the dates August 18, 1936, January 20, 1937, and September 11, 1939, November 13, 1939, January 22, 1940, and the correspondence had by the Madison Square Garden Corporation in connection with those leases, for the

(Testimony of Ethel Mullany.)

purpose of showing the membership of David Leeds in the Communist Party.

Presiding Inspector: Received without objection.

Mr. Del Guercio: And I ask that photostatic copies be substituted.

Presiding Inspector: Yes, that may be done.

(The documents referred to were received in evidence and marked Government's Exhibit 261.)

Mr. Del Guercio: You may cross examine.

Presiding Inspector: Any questions?

Mr. Gladstein: None at all.

Presiding Inspector: You are excused.

(Witness excused.)

Presiding Inspector: Next witness now, Mr. Gladstein.

Mr. Gladstein: Mr. Shoemaker, will you take the stand up here, please? [2845]

RAY D. SHOEMAKER

called as a witness on behalf of the Alien being first duly sworn, testified as follows:

Direct Examination

Presiding Inspector: Your name and address.

The Witness: Ray, D. Shoemaker: S-h-o-e-m-a-k-e-r.

(Testimony of Ray D. Shoemaker.)

By Mr. Gladstein:

Q. How is your first name spelled, Mr. Shoemaker?

A. R-a-y.

Q. And your middle initial is "D"?

A. Yes, sir.

Q. And your last name is spelled S-h-o-e-m-a-k-e-r?

A. That's right.

Q. Where do you live, please?

A. I live in Portland, Oregon.

Q. Will you give the exact address?

A. 3511 Southeast Tolman Street.

Q. Now, in answer to my questions will you speak up as much as possible so that counsel can hear you? What is your occupation or profession?

A. Well, am an attorney, but I am also a Court Reporter. Do you want me to give a brief explanation, your Honor.

Presiding Inspector: No. Just answer the questions.

By Mr. Gladstein: [2846]

Q. You are a Court Reporter, are you?

A. Yes, sir.

Q. In what Court are you a Court Reporter?

A. I am an official reporter of the Circuit Court of Multnomah County.

Q. That is the State of Oregon?

A. Yes, sir.

Q. How long have you had official connection with Oregon Courts as a Court Reporter?

A. Since June, 1926.

(Testimony of Ray D. Shoemaker.)

Q. Were you prior to that time a Court Reporter attached to any other Court?

A. Yes. From 1919—January, 1919 until May, 1926 I was an official reporter in the Fourteenth Judicial District of the State of Iowa.

Q. Now, you are familiar with and you know the methods of taking down statements orally made and taking them down in shorthand, are you?

A. Yes, sir.

Q. And you know the methods of transcribing shorthand notes into longhand or typewritten statements, do you? A. I do.

Q. Now, on Sunday, May 4th, 1941, did you have occasion to act as Court Reporter in the office of William P. Lord in Portland, Oregon?

A. I did. [2847]

Q. How did you come to go to that office to act as a reporter?

A. About nine o'clock Sunday morning I received a phone call at my home and Mr. Lord was on the phone. He asked me if I would come to his office at eleven o'clock to report a deposition. I said "Well, my boy wants me to take him out in the country today. He is playing base ball, and I don't think I can make it."

Mr. Del Guercio: "If the Court please, I don't think it is necessary for the witness to go on into everything else that occurred.

Presiding Inspector: I will take it. We will get through quicker, I think, if we will allow this.

A. (Continuing) And he said, "Well, I won-

(Testimony of Ray D. Shoemaker.)

der if I can get ahold of John Michelet", who is a reporter in the Circuit Court. I said "I don't know where John is. Wait a minute! I will ask my boy if he is going to play and if I have to take him out".

Well, I asked my boy if he was going to play and he said "No, it is called off on account of rain".

So then I told Bill, or Mr. Lord—I said "I'll be at your office at eleven o'clock". And I reported at his office at 405 Guardian Building at eleven o'clock.

By Mr. Gladstein: [2848]

Q. Now, will you identify Mr. Lord, please? Who is he and how long have you known him?

A. He is a prominent attorney in the City of Portland. I have known Mr. Lord since 1926.

Q. Have you frequently had occasion to take court reporting and the taking of depositions for him or in cases in which he is connected?

A. I haven't taken many depositions for Mr. Lord, but I have reported many cases in Court where he was an attorney.

Q. Did you actually take in shorthand a deposition of any person that morning?

A. I did.

Q. Who were the people who were present at the time that the deposition began?

A. Mr. Lord, acting as Notary Public; yourself; Mr. Craycraft, I believe his name is,—

Mr. Del Guercio: (Interposing) Who?

(Testimony of Ray D. Shoemaker.)

By Mr. Gladstein:

Q. Mr. Roscoe Craycraft; R-o-s-e-o-e. I am not sure whether there is an "e" on the end. It may be just R-o-s-e-o, Craycraft, C-r-a-y-e-r-a-f-t?

A. Yes, sir. And Mr. Cannalonga,

Q. Mr. Maurice J. Cannalonga?

A. Cannalonga; yes, sir.

Q. At that time were questions asked by me of Mr. [2849] Cannalonga and were answers given by him?

A. Yes, sir.

Q. Prior to the asking of any questions by me or the giving of any answers by him was he sworn?

A. Yes, sir. Mr. Lord swore him to tell the truth.

Q. In the—

Mr. Del Guercio: (Interposing) Just a minute, please! If your Honor please, I object to any more questioning along this line.

Presiding Inspector: I will allow it. I will allow it. We have got to see what the questions will be.

By Mr. Gladstein:

Q. In the process of swearing Mr. Cannalonga, in did Mr. Lord raise his hand and have Mr. Cannalonga raise his hand, too?

Mr. Del Guercio: I object to that. There is no foundation laid that he could have been sworn or in what kind of a proceeding.

Presiding Inspector: I will allow it. If you want to have him prove his commission to take an

(Testimony of Ray D. Shoemaker.)

oath, why, I suppose that Mr. Gladstein will do that.

Mr. Gladstein: Yes, we will, your Honor.

A. Yes, sir.

By Mr. Gladstein:

Q. After you took the deposition in shorthand did you at my request type up your shorthand notes? [2850]

A. I did.

Q. And did you at my request send a copy of that deposition to me at my office?

A. I did, by air mail.

Q. I will show you what purports to be a document entitled "Statement of Maurice J. Cannalonga" and which purports on the last page to be signed by you as a shorthand reporter, and I will ask you to identify it.

A. This is a transcript that I sent you by air mail at 4:00 o'clock Sunday afternoon.

Q. Was this transcript which you have just identified made by you from your notes?

A. It was.

Q. Did you bring your shorthand notes with you? A. I did.

Q. Will you please take them out of your bag, if you have them there?

A. (Producing shorthand notes from brief case).

Q. Now, Mr. Shoemaker, I am going to read the transcript, the deposition itself, to you and I want you to check from your notes and to stop me at

(Testimony of Ray D. Shoemaker.)

any point where there is any discrepancy and point out what discrepancy, if any, there is.

Mr. Del Guercio: If your Honor please,—

Presiding Inspector: (Interposing) I sustain the objection. [2851]

Mr. Gladstein: Why, your Honor?

Presiding Inspector: You can't get evidence into the record by reading it in that way.

Mr. Gladstein: Well, all right. I will do it this way. The document already has been identified. I will offer it in evidence.

Presiding Inspector: I will exclude it.

Mr. Gladstein: Why, your Honor?

Presiding Inspector: Because I don't know what the purpose of it is.

Mr. Gladstein: The purpose is to impeach the witness.

Presiding Inspector: In what way? It might contain a thousand things that are immaterial.

Mr. Gladstein: By showing sworn statements under oath contrary to the testimony given by that witness in this case.

Presiding Inspector: Well, if they were material to the record and his attention has been called to them, the statements, I will allow them; but not just absolute statements made by him. They are not competent. You have never given him a chance to explain.

Mr. Gladstein: Who?

Presiding Inspector: Mr. Canhalonga.

Mr. Gladstein: If your Honor please, I want to

(Testimony of Ray D. Shoemaker.)

make an offer of proof on this, and if your Honor feels that a motion to strike is in order I am perfectly willing— [2852]

Presiding Inspector: (Interposing) I am not going to receive it.

Mr. Gladstein: I want to make an offer of proof for the record.

Presiding Inspector: You may do that, of course.

Mr. Gladstein: I now offer to prove that the document which this present witness has just identified as a transcript of the testimony which he took on the occasion that he has just—

Presiding Inspector: (Interposing) Not "testimony". Of the "statement".

Mr. Gladstein: "Of the statement", I said. What did I say?

Presiding Inspector: "Testimony".

Mr. Gladstein: All right. I will substitute the word "statement".

Presiding Inspector: Yes.

Mr. Gladstein: (Continuing) —if permitted in evidence, would read as follows:—

Presiding Inspector: (Interposing) I won't allow it.

Mr. Gladstein: Well now, if your Honor please, I have a right to make an offer of proof.

Presiding Inspector: I won't allow an offer of proof. You can have it marked for identification.

Mr. Gladstein: I have a right to— [2853]

Presiding Inspector: (Interposing) No, sir, you have no right to make an offer.

(Testimony of Ray D. Shoemaker.)

Mr. Gladstein: (Continuing) —make an offer of proof.

Presiding Inspector: No, not unless I wish to proceed in that way. And I don't wish to proceed in that way.

Mr. Gladstein: I don't understand, your Honor.

Presiding Inspector: You may ask your question.

Mr. Gladstein: You mean that you will not permit me to make an offer for the record of what I wish to prove?

Presiding Inspector: No. It hasn't been excluded. You haven't offered this in evidence.

Mr. Gladstein: I did.

Mr. Del Guercio: You haven't shown it to me.

Presiding Inspector: Did I exclude it?

Mr. Gladstein: I thought you did.

Presiding Inspector: You didn't offer it to me. I didn't know what it was.

Mr. Gladstein: I am sorry.

Presiding Inspector: Of course, I should exclude an unknown document which is produced unless I have an opportunity to know what it is about.

Mr. Gladstein: All right.

(Whereupon the proffered Exhibit was passed to the Presiding Inspector). [2854]

Presiding Inspector: Part of this is clearly incompetent.

Mr. Gladstein: What part?

Presiding Inspector: All of the last part.

Mr. Gladstein: I disagree with you.

(Testimony of Ray D. Shoemaker.)

Presiding Inspector: You may disagree, but I say it is incompetent and I have a right to say that.

Mr. Gladstein: If Maurice Cannalonga, as he got off this stand, walked down the street and met John Doe and said to him "I gave testimony that was false," we would have a right to bring John Doe in and bring out that fact.

Presiding Inspector: I would like to see your authority on that. Wouldn't you like to ask him first whether he made that statement?

Mr. Gladstein: But this statement is made after the witness takes the stand.

Presiding Inspector: You can call him back.

Mr. Gladstein: We can't call him back.

Presiding Inspector: Why can't you call him back?

Mr. Gladstein: At the time Cannalonga was on the stand this deposition that you are now reading was not in existence. This deposition was given—today is Tuesday—day before yesterday, and this deposition was made under oath. We, therefore—

Presiding Inspector: That don't matter a bit.

Mr. Gladstein: The fact that he made a statement under [2855] oath?

Presiding Inspector: Not at all, as to its admissibility. You couldn't put a sworn statement in any more than you could put a statement in without it being sworn to.

Mr. Gladstein: What is the test as to whether it goes in?

Presiding Inspector: That may be something

(Testimony of Ray D. Shoemaker.)

that would have some influence on his credibility for the trier of the facts, but has no influence whatever on its admissibility.

Mr. Gladstein: Isn't this true: That if the subject matter—

Presiding Inspector: That is elementary.

Mr. Gladstein: That if the subject matter on which he gives the deposition is material to the issues involved in this case, the issues on which he previously gave testimony of a contradictory nature, then we have the right to prove that in this case?

Presiding Inspector: That is pure hearsay. This is hearsay. This man is telling about something that he says. You can call him, call Cannalonga.

Mr. Gladstein: We have no objection to having Cannalonga called back.

Presiding Inspector: Call him, then. I will give you a subpoena.

Mr. Gladstein: That is fine, and we are perfectly satisfied with it, but we wish to have this deposition put into [2856] evidence.

Presiding Inspector: You have it marked for identification and we will see after you have examined Mr. Cannalonga.

Mr. Gladstein: You mean, your Honor, the only way I can introduce this is through Mr. Cannalonga?

Presiding Inspector: That is my ruling at this time.

Mr. Gladstein: I still wish to make an offer of proof to prove—

(Testimony of Ray D. Shoemaker.)

Presiding Inspector: I won't receive the offer.

Mr. Gladstein: For all I know we may never get him.

Presiding Inspector: If you can't get him that will raise a different question.

Mr. Gladstein: I think, your Honor, that when the witness has been qualified as a court reporter and says that he took a deposition, which was taken under oath, by the witness, Cannalonga, this deposition having been taken after Cannalonga testified and, therefore, we couldn't have confronted him with it at the time he testified, then I think we have a right to have this deposition read into the record and received in evidence to show that it contains statements made under oath by Cannalonga which are contradictory to the testimony brought out by the Government from him on his direct examination.

Presiding Inspector: No, sir. I rule against you on that. You have got to swear Cannalonga first.

Mr. Gladstein: He was sworn when he gave the deposition. [2857]

Presiding Inspector: That doesn't make a bit of difference. I haven't heard his oath. They haven't had the opportunity to test that under cross examination.

Mr. Gladstein: Now, your Honor, if I remember correctly, you allowed the Government to introduce in evidence the statement, unsworn, of Richard Lovelace—

Presiding Inspector: I did.

Mr. Gladstein: You did.

o (Testimony of Ray D. Shoemaker.)

Presiding Inspector: Lovelace is dead.

Mr. Gladstein: I know, but did we get an opportunity to cross examine him?

Presiding Inspector: No.

Mr. Gladstein: So then any person who is dead, his statement can be brought into this case without an opportunity for his cross examination, is that it?

Presiding Inspector: Don't you know—in the first place, you are very impolite. In the second place, you know very well that the rules against hearsay are not enforced with the same rigidity by an Administrative official as they are in a Court of Justice.

Now, I think it was clearly within my discretion to admit the statement of Mr. Lovelace, explanation having been given; and it having been proved to a certain extent by the testimony of the witness, Dawn Lovelace.

Now, this statement may contain some contradictory matter; [2858] it may not. I will have to go back and review with care the testimony of Cannalonga. It certainly contains a good many statements which are clearly incompetent, certainly without proof that Mr. Cannalonga was asked these questions.

Now, I will allow you to call Mr. Cannalonga, and I will furnish you with a subpoena to that effect. Then when you have called him we will see about this deposition.

Mr. Gladstein: Is your Honor ruling that the only way I can prove that Mr. Cannalonga was asked

(Testimony of Ray D. Shoemaker.)

the questions that I asked him day before yesterday is from Cannalonga himself? Is that your ruling?

Mr. Del Guercio: There is no evidence that this is the same Cannalonga that testified in this case.

Presiding Inspector: I am not going to listen to that.

Mr. Gladstein: We will prove it was him.

Presiding Inspector: We will assume that.

Mr. Gladstein: You can safely assume that. We will prove it was.

Presiding Inspector: I have never known of a statement being received, made after a person has left the witness stand, without having the person called back and an inquiry made and an opportunity given to test by cross examination the truth of the statements then made.

Mr. Gladstein: Your Honor, we have brought Mr. Shoemaker, a court reporter down here—

[2859]

Presiding Inspector: You don't need Mr. Shoemaker's testimony.

Mr. Gladstein: I think we do. We have done this at rather great expense to the Defense Committee and—

Presiding Inspector: You are not going to have to call Mr. Shoemaker back.

Mr. Gladstein: That is one reason I would like to have this testimony in this record because I feel that your Honor, by the time the case is finished, will recognize with us the propriety and admissi-

(Testimony of Ray D. Shoemaker.)

bility of this document and, therefore, we don't want to have any question about it; we want to have that in.

If you feel that at this time you do not want to allow that document in evidence, although I have offered it, I still think, in all deference to your Honor's ruling, we have a right to make an offer of proof. Some day somebody besides yourself may be looking at this record and we think that we are entitled to the protection of having this record include what we consider as very critical type of proof.

Presiding Inspector: This is going to be introduced, at least marked for identification, and you can present it to any other tribunal before which this question comes.

Mr. Gladstein: I wish to make an offer of proof. I have never heard—

Presiding Inspector: If they don't object to your offer [2860] of proof the Examiner will not rule on it.

Mr. Gladstein: Let's assume they will object.

Mr. Del Guercio: We do object to the offer of proof.

Presiding Inspector: You mean you object to their making an offer of proof?

Mr. Del Guercio: Yes. And we object to the admissibility of the document for identification, or otherwise, and we demand—

Presiding Inspector: Oh, no. This document may be marked for identification.

(Testimony of Ray D. Shoemaker.)

Mr. Gladstein: Let us have it first marked for identification.

Mr. Del Guercio: I haven't seen it yet.

Presiding Inspector: It doesn't matter. You don't have to see it when it is marked for identification.

Mr. Del Guercio: I submit this procedure is very unusual.——

Presiding Inspector: It doesn't make any difference.

Mr. Del Guercio: (Continuing) ——to pursue a witness after he gets off the stand.

(The document referred to was thereupon marked for identification as Alien's Exhibit 13.)

Presiding Inspector: Now you offer it?

Mr. Gladstein: I offer it in evidence.

Mr. Del Guercio: I object to it.

Presiding Inspector: Now look at it, Mr. Del Guercio. [2861]

(The document referred to was passed to Mr. Del Guercio for inspection.)

Presiding Inspector: You offer this not as original evidence, do you, as to what happened, that the witness, Cannalunga, spoke of?

Mr. Gladstein: I offer this as documentary evidence, identified by this witness, as to what this witness says took place at those proceedings.

Presiding Inspector: As to what took place at what proceedings?

(Testimony of Ray D. Shoemaker.)

Mr. Gladstein: The proceedings at which the deposition was taken.

Presiding Inspector: That isn't the question as to what took place on that day in Mr. Lord's office.

Mr. Gladstein: You wish to know now what my claim of competency is?

Presiding Inspector: I ask you this: Do you offer it as original evidence or as simply impeaching the witness, Cannalunga?

Mr. Gladstein: For impeaching purposes.

Presiding Inspector: Only?

Mr. Gladstein: Let us say for that purpose at this time.

As a matter of fact, I think on checking the law, your Honor, that I can find authority that will support our position that we are entitled— [2862]

Presiding Inspector: Maybe you can.

Mr. Gladstein. (Continuing) At least, I feel rather sure that we are entitled to have this in evidence for impeachment purposes, as direct impeachment.

Presiding Inspector: Not ordinarily you can't introduce statements made by a witness out of court unless you have given the witness an opportunity to know about them, and to admit or deny having made them.

Mr. Gladstein: If that is the general rule, and let us assume it is, Judge—

Presiding Inspector: You know it is the general rule.

(Testimony of Ray D. Shoemaker.)

Mr. Gladstein: If that is the general rule obviously it couldn't apply to the case of a witness who made his alleged contradictory statements after he had left the stand.

Presiding Inspector: Oh, yes; Because you can call him back.

Mr. Gladstein: I still maintain, your Honor, that this document is admissible in evidence for impeachment purposes.

Presiding Inspector: Well, there is one correction in there that he makes, and he explains how the statement may have got in about Schneidermann.

Mr. Gladstein: That is not all.

Presiding Inspector: I know. Let us take that one thing. Shouldn't he be examined in open court on that?

Mr. Gladstein: I have no objection to that. He is a [2863] Government witness. Let the Government bring him down and contest the proceeding that took place.

Presiding Inspector: He was excused and let go. You can call him.

Mr. Del Guercio: He is their witness and they should call him, and we demand that he be called.

Presiding Inspector: No, no; he is still your witness.

Mr. Del Guercio: Not for this statement here. That was made without knowledge to us.

Presiding Inspector: It doesn't make any difference; he is still your witness.

Mr. Gladstein: How long do you wish, Mr.

(Testimony of Ray D. Shoemaker.)

Del Guercio, to go over that document? The Court is waiting for you.

Presiding Inspector: It will take some time.

Mr. Del Guercio: You want me to read it, don't you?

Presiding Inspector: Go ahead, Mr. Del Guercio.

(Further inspection of the document by Mr.

Del Guercio.)

Presiding Inspector: It will doubtless take beyond the recess hour.

I think we will recess now until two o'clock.

Mr. Gladstein: Just a moment. I would like the document returned to the reporter. I do not want the document to be out of the custody of the reporter, your Honor.

Presiding Inspector: Can't you all sit here and let him read it? [2864]

I will sit here—go ahead.

Mr. Del Guercio: I will return it to the reporter.

Presiding Inspector: No, no. It will simply take up time this afternoon. Go ahead. I will sit here while you read it.

Mr. Gladstein: We didn't sit here and read all the books and documents they offered from page to page.

Presiding Inspector: This is off the record, Mr. Reporter. We have adjourned.

(Here followed remarks off the record.)

Presiding Inspector: This Court is in session again. We will wait until the paper is read by counsel.

(Testimony of Ray D. Shoemaker.)

(The document referred to was passed to Mr. Del Guercio.)

Mr. Del Guercio: Note that the Alien is not present.

(The Alien returned to the hearing room at 12:32 P.M.)

Presiding Inspector: I am going to recess now until 2:00 o'clock. You will have to postpone reading that until the afternoon session.

Mr. Del Guercio: Very well.

Presiding Inspector: Hand the document to the Court reporter.

Mr. Del Guercio: I return the document to the reporter.

(Whereupon, at 12:36 P.M. a recess was taken until 2:00 P.M. of the same day.) [2865]

After Recess

2:05 O'Clock P.M.

RAY D. SHOEMAKER

called as a witness on behalf of the Alien, having been previously duly sworn, testified further as follows:

Mr. Goodwin: May it please the Court, may I make a suggestion?

Presiding Inspector: Yes.

(Testimony of Roy D. Shoemaker.)

Mr. Goodwin: I trust that I am making it entirely outside of the combat area.

Now, during my lunchless noon hour I examined, as far as I could, the authorities and I am unable to find, your Honor, any authority for the introduction of any statement of a witness as an impeaching statement unless it was made prior to the testimony of the witness, and after he had been asked if he had not on this former occasion made such a statement, ~~yes~~, made such a statement.

Now, I think the offer is somewhat remarkable. From the glance that I have had of the ~~statement~~ apparently it is not only contradictory, but introduces new matter. [2866]

The Witness, as I understand, was examined by one of counsel on Saturday and had a full opportunity at that time to secure his attendance as a witness here, but instead of attempting to obtain his attendance here he asked him to attend before a Notary. I suppose that is sort of a collateral immigration and naturalization proceeding that he has started on his own account. But anyway, he was not brought into court. He had an opportunity to bring him into court and he has not done so. Now, we do not want any evidence that is rightly admissible excluded. On the other hand, we do not want any evidence admitted that is palpably improper.

We are, of course, taken by surprise by such an extraordinary suggestion as that made by Mr. Gluckstein for the introduction of such evidence as this.

(Testimony of Ray D. Shoemaker.)

Now, I suggest that in the orderly conduct of the matter that consideration of his offer be postponed until the opening of court tomorrow morning and that, in the meantime we have an opportunity to examine into the matter, unless your Honor feels that he is now ready to rule.

Presiding Inspector: Well, I don't feel that I am ready to rule. I will hear you, Mrs. King, although I think I can dispose of the matter. Go ahead.

Mrs. King: If your Honor please, during the recess I had an opportunity to make a cursory review of Wigmore, and I found that there are two divergent lines of authority on this [2867] question; that Mr. Wigmore says that there is this rule and suggests that it is a rule which should be honored in the breach at the discretion of the trial judge on the appropriate occasion, and that some jurisdictions have recognized that and that other jurisdictions have not.

It is also true, as your Honor knows, that there has been admitted in this proceeding a good deal of hearsay, so that as far as the exception to the hearsay rule is concerned we have not been very strictly observing it, which seems to me a reason why at this point, where the hearsay is a matter of real importance, it is entitled to go in just as we have been admitting it in other instances.

Now, this testimony is clearly admissible at some point. The only problem is really a problem of order of proof; that if Mr. Cannalunga was con-

(Testimony of Ray D. Shoemaker.)

fronted with this statement, as Mr. Wigmore makes plain, even if he could not recollect having made it, it would at that point become absolutely admissible.

Now, in view of those circumstances and the fact, as your Honor knows, that we have been trying to prepare our case and have got witnesses down from Portland with reference to this matter at this time, it seems to us that we should be permitted to introduce this matter at this time and that it is under the other rules made in this proceeding and under the generally loose principles of evidence which control in Administrative proceedings and which provide nothing more than the ordinary [2868] rules of fairness; I mean, substantially that is the rule of evidence controlling in Administrative proceedings.

For instance, in this book on "Administrative Tribunals and the Rules of Evidence" we find in the introduction at the very beginning that—this is cited from Wigmore.

Presiding Inspector: I have read some of that.

Mrs. King: Wherein he calls attention to the obstructive and irrational technicalities and hopes that they will not become part of Administrative procedure as they have of common law rules.

In view of that situation we urge your Honor to admit this exhibit in evidence and to permit the examination of this witness who has been brought in from out of town.

(Testimony of Ray D. Shoemaker.)

Mr. Goodwin: Your Honor, I have heard the argument of the learned counsel on the other side, but I haven't heard what she says to our suggestion, except that she thinks that you ought to rule now without hearing from us. Obviously they have had this matter in mind since last Saturday, since they had the witness, I suppose, in custody, and they have had an opportunity to prepare themselves for this present argument. We have not had an opportunity to prepare ourselves and I would renew my suggestion.

Mr. Gladstein: In view of Judge Goodwin's statement I think I should make this statement. I don't offer it as evidence but a statement simply to clarify the situation. [2869] When Mr. Cannalunga appeared at my request before William P. Lord in Portland on Sunday, the day before yesterday, I had already asked him before that on the Saturday afternoon when he made certain statements in my presence and in the presence of Mr. Roscoe Craycraft—I asked him if he would come to San Francisco and take the stand again and tell the whole truth. He at that time told me that he was not willing to come and reveal the things that had taken place about which he had told Mr. Craycraft and me. I asked him then if he would make a statement before a Notary Public, before a lawyer in the city of Portland. He said he would have to "think it over." That was Saturday afternoon and the following morning he came and said he was willing to do so.

(Testimony of Ray D. Shoemaker.)

In the meantime, arrangements had been made for Mr. Lord to have this deposition taken and on Sunday morning, as I understand from Mr. Shoemaker, Mr. Shoemaker was called and arrangements were made for the deposition.

Now, it is a theoretical question as to whether Mr. Cannalunga will ever be available. As a practical proposition Mr. Shoemaker is here. There is another witness we intend to put on tomorrow who is available, who will be available. But we can't say that Mr. Cannalunga is available. If he ever is available we will not object to his taking the stand. In fact, I made that request of him, but I had not powers of subpoena. If I had had a subpoena with me I certainly would have [2870] served it, but I don't know what the legal effect would be.

Mr. Goodwin: Your Honor, I have listened and I haven't heard an answer to the logic of my suggestion yet: That this matter go over until we have an opportunity to present it in an orderly fashion to your Honor. And, so far as the explanation of Mr. Gladstein is concerned, it is merely that the witness was reluctant. Well, he was reluctant when we brought him in and he was apparently under some intimidation when we brought him in. And I think that there is no doubt but what he would have to come in had there been—well, of course he would have to come in. The Government of the United States is sufficiently powerful to bring in a witness on behalf of the

(Testimony of Ray D. Shoemaker.)

Alien as well as on behalf of the United States and he could have been brought here and he wasn't.

Now, we would like to have an opportunity to argue the question of the admissibility of this document and we would like to see it.

Presiding Inspector: Well, I think you should have the opportunity to argue the admissibility of this document and I would be very glad before this is finally received to have both sides present authorities. There seems to be a difference of authority on receiving statements made after the main testimony has been given. Mrs. King has called it to my attention a few moments ago and in the rapid glance I gave to that compilation known as "Corpus Juris" there was also a similar [2871] statement made there. The authorities cited did not seem of the highest authority. There was one case looking towards the view that this was admissible from the New York Common Law Reports. But that is a series published—you know perhaps better than I—some one hundred and twenty-five years ago.

Mr. Goodwin: I recall that there was a case to the contrary; an Illinois case.

Presiding Inspector: Yes; a case in Illinois.

Mr. Goodwin: I sat on that.

Presiding Inspector: Of course, I have seen this document. It is not going to poison my mind one way or the other to have this so that we can use it if we deem it necessary.

(Testimony of Ray D. Shoemaker.)

We have a court reporter here. Why not let him verify it and we will determine its credibility, its admissibility subsequently?

Mr. Goodwin: You mean to verify this document?

Presiding Inspector: As being what occurred before Mr. Lord.

Mr. Del Guercio: There is no objection to that being done.

Mr. Goodwin: The examination being limited to that?

Presiding Inspector: Yes.

Do you want to read it to him, Mr. Gladstein?

Mr. Del Guercio: We object to reading it.

Presiding Inspector: I will allow it, with that under- [2872] standing. I am not admitting this in evidence, nor am I admitting—even this reading will be subject to a motion to strike out, or it may be considered as really offered off the record. I don't want to put it that way, but what I mean to say is that I am going to pass on this ultimately without prejudice to what we are doing now. But I want to let this court reporter go back to his work.

Mr. Del Guercio: He should read from his notes.

Presiding Inspector: Oh, yes; he may read it from his notes.

Mr. Goodwin: It can be identified; may it not, and he can testify that that is a correct transcript of the notes he has taken?

Presiding Inspector: Is there any difference really whether you read it or not?

(Testimony of Ray D. Shoemaker.)

Mr. Gladstein: I would prefer if I might, your Honor, because I think it would be better if he checked with his notes, as I understand this was gotten out in haste. I asked him to rush it to me. There may be a typewritten error or two. That occurs frequently in depositions. Therefore, I would prefer if I read it to him and if he would stop me at any point where a word is incorrectly set forth in the transcript.

Presiding Inspector: Do you have a copy?

The Witness: There are two copies.

Presiding Inspector: Supposing he reads it from his notes to me and you and I will check—you have two copies? [2872]

Mr. Gladstein: I do not think I brought the other copy with me.

Mr. Goodwin: If that is read if is in evidence subject to a motion to strike out?

Presiding Inspector: Yes. You may treat it that way.

Mr. Goodwin: I don't think it is fair to the Government. I think if he merely identifies that as being a correct transcript of his notes he can then be recalled for cross examination if necessary.

Presiding Inspector: Wouldn't that accomplish everything?

Mr. Goodwin: Let him identify it now and then let us have an opportunity to recall him if we wish to.

(Testimony of Ray D. Shoemaker.)

Presiding Inspector: What difference does it make to you about having it read now?

Mr. Gladstein: Is it your suggestion that the witness read it while you and I check the transcript?

Presiding Inspector: Yes.

Mr. Gladstein: I am satisfied.

Presiding Inspector: But Judge Goodwin now has interposed an objection to reading it at all. We are not really trying this case for anybody's benefit except our own.

Mr. Goodwin: Reading testimony of this kind in open court is, of course, highly prejudicial.

Presiding Inspector: I thought you were going to take the view it didn't amount to anything anyway. [2874]

Mr. Goodwin: I mean as far as the public is concerned. If it is admissible it ought to be admitted; if it is not admissible it ought not to be read. I have made a suggestion which I think covers it and protects the Alien perfectly. He may identify it, he may testify that it is a correct transcript, and then we will have the whole question up on its admissibility.

I object to its being read now.

The Witness: Your Honor, I typed this hurriedly and I didn't have a chance to check it before I sent it by air mail to Mr. Gladstein.

Mr. Del Guercio: The witness already testified that it is a correct transcript.

(Testimony of Ray D. Shoemaker.)

Presiding Inspector: He says, while this is a correct transcript, it is subject, like everyone, to errors and he would like to check it.

Mr. Gladstein: You made a ruling, and I thought I understood you to say you would allow the reading.

Presiding Inspector: Yes.

Mr. Gladstein: May we proceed under the ruling?

Presiding Inspector: I think I will allow him to read it.

Mr. Del Guercio: May I make this further objection and observation: Under the rules under which this proceeding is being conducted, as the Court knows, in so far as Government witnesses are concerned, their statements, even when they are [2875] taken prior to the hearing, are not admissible unless it can first be shown that the witness is unavailable. Now, certainly the Government is bound by that rule, that here where you have a situation where a witness has been called here to testify, and counsel has had opportunity to cross examine him, and to explore his mind and cross examine him exhaustively, and after he is excused as a witness counsel pursues him, follows him, and a week later gets him, talks to him, and then invites him to a certain office on a Sunday and takes a statement from him wherein counsel, the statement will show, not only has intimidated him, but even to subornation of perjury, I say that under those circumstances

(Testimony of Ray D. Shoemaker.)

this should not be permitted to be read or considered in this proceeding.

Presiding Inspector: I am going to allow it to be read with the understanding that it is not anything more than technically admitted at this time. The fact that I have allowed it does not weigh in its favor so far as its admissibility is concerned, and this is done solely for the reason that I want to let the witness go back to his court work.

Mr. Del Guercio: May the record show that I have objected to it strenuously?

Presiding Inspector: Certainly.

Let the witness read it. I think the witness had better read, rather than you, Mr. Gladstein.

Mr. Gladstein: All right. [2876]

Presiding Inspector: Have you two copies?

Mr. Gladstein: I don't have the other copy with me, your Honor, but I will check it with you.

Presiding Inspector: All right.

Go ahead and read from your notes.

(The Presiding Inspector and Mr. Gladstein checked with the typewritten statement.)

The Witness: These are questions by Mr. Richard Gladstein.

Presiding Inspector: I am not going to let this entire record be read. You understand that? Only the questions that are answered. Go ahead.

Mr. Gladstein: First, there is this statement. (Indicating).

(Testimony of Ray D. Shoemaker.)

Presiding Inspector: We don't care for that.

Mr. Gladstein: It shows he was sworn.

Presiding Inspector: He already testified to that.

Go ahead.

The Witness: (Reading from shorthand notes).

"Q. Mr. Cannalonga, you were recently a witness in the Harry Bridges deportation case, were you not? A. Yes.

"Q. Yesterday, in my room in the Clyde Hotel in Portland, you and Mr. Roscoe Cravercraft came into my room at about 3:00 o'clock, is that correct?

"A. Yes, sir." [2877]

Mr. Goodwin: (Interposing) We have no copy of this, your Honor.

Presiding Inspector: Come up and look over my shoulder.

(Whereupon Mr. Goodwin came forward as suggested.)

Mrs. King: Mr. Shoemaker, will you read a little louder?

The Witness: Yes.

Presiding Inspector: Proceed.

The Witness: (Continuing reading from shorthand notes):

"Q. And at that time Mr. Cravercraft introduced you to me, did he not? A. Yes.

"Q. Then a conversation took place between the three of us, is that correct? A. Yes.

(Testimony of Ray D. Shoemaker.)

"Q. Now, I want to ask you some questions concerning that conversation, and I want to ask you to repeat the statements you made to both Mr. Craycraft and to me at that time. First of all, will you state in your own words the circumstances under which you were first contacted to give a statement to the FBI in the Bridges case?

"A. I want to get this straight.

"Q. Tell me where and who and what happened.

"A. Well, I was contacted through the immigration.

"Q. Immigration department?

"A. That lawyer in the immigration department. [2878]

"Q. He is a man by the name of Mr. Boyd?

"A. Boyd. That is it.

"Q. Where did he contact you?

"A. Through the marine firemen's hall.

"Q. That is the union hall? A. Yes.

"Q. When was that?

"A. I don't remember the date.

"Q. The month?

"A. I don't even remember the month.

"Q. Yesterday I think you told me it was some time in October of last year. Would that be about right?"

And then I have a notation that the witness took a pocket book from out of his pocket and looked at it.

"A. Yes; in October.

"Q. In October of last year? A. Yes.

(Testimony of Ray D. Shoemaker.)

"Q. What happened?"

"A. Well, I went down to the immigration station and Boyd told me that the FBI men were coming down and they wanted to talk to me. Then from there we went out to the FBI building.

"Q. Do you remember where that was?"

"A. The Vance building, on the corner of Third avenue and Union.

"Q. In what city? [2879]

"A. Seattle. And I think it is the 9th floor. And went up to the 9th floor and met a fellow by the name of Medala and—(Witness pauses)

"Q. Yesterday you said Dickstein.

"A. And Dickstein."

Presiding Inspector: There is no "and" here.

The Witness: Continuing reading from shorthand notes)

"Q. Is that correct?"

"A. Medala and Dickstein."

Presiding Inspector: The transcript reads:

"A. Correct. Medala and Dickstein."

Is that what your notes read?

The Witness: Yes, sir.

Presiding Inspector: Go ahead.

The Witness: (Continuing reading from shorthand notes):

"Q. What happened?"

"A. Well, they started questioning me in regard to Bridges, for an hour and a half.

"Q. What time did the questioning begin?"

"A. Oh, let's see.

(Testimony of Ray D. Shoemaker.)

"Q. This is what you told me yesterday: you said that you had a doctor's appointment at either 1:00 or 3:00 o'clock in the afternoon.

"A. Yes. That is it.

"Q. And that the questioning by the FBI agents took place [2880] for a period approximately two hours before that appointment time with the doctor."

Presiding Inspector: There is no "took place" here. Is that in your notes?

The Witness: Yes, sir.

Presiding Inspector: Right after the word "agents"?

The Witness: Yes.

Presiding Inspector: " * * * by the FBI agents took place * * * "

The Witness: Yes.

Presiding Inspector: Go ahead.

The Witness: (Continuing reading from shorthand notes):

"A. That is it.

"Q. Is that what happened? A. Yes.

"Q. During that two hours what took place?

"A. Well, just a general conversation.

"Q. Did they ask you a lot of questions about what you knew about Harry Bridges?

"A. Yes.

"Q. Did they ask you whether you could prove that Bridges was a communist?

"A. Yes; they asked me that, and then I an-

(Testimony of Ray D. Shoemaker.)

answered that, no, I couldn't prove that he was a communist.

"Q. Did they tell you that they knew that you had been [2881] a communist? A. Yes.

"Q. Did they tell you that you should make a statement for them in which you were to say that Bridges was a communist?

"A. Not that first time. You see, all during this time they never came out the way you said it.

"Q. Then let me ask you this question:"—

Presiding Inspector: Is the word "question" in your notes? The way the transcript reads is "Then let me ask you this:" Is the word "question" there?

The Witness: No.

(Continuing reading from shorthand notes:)

"Q. Then let me ask you this: is it correct that on this first occasion they kept asking you questions"—

Mr. Del Guercio: (Interposing) There appears to be so many incorrectnesses—

Presiding Inspector: They don't amount to anything.

Mr. Del Guercio: Can you hear what the witness is testifying to?

Mr. Goodwin: I can follow the stenographer, but I think it would be better if someone else checked.

(Whereupon Mr. Myron replaced Mr. Goodwin in checking the transcript during the reading of the shorthand notes.)

(Testimony of Ray D. Shoemaker.)

The Witness: (Continuing reading from shorthand notes):

"Q. Then let me ask you this: is it correct that on [2882] this first occasion they kept asking you questions as to whether you knew that Bridges was a communist and you denied that you had any such knowledge? A. Yes.

"Q. Is that correct? A. Yes.

"Q. That was what happened? A. Yes.

"Q. Did they also ask you whether you had ever attended communist meetings with Bridges?

"A. Yes, they asked me that.

"Q. What did you reply to those questions?

"A. I told them, no; that I had been in meetings with him where there were communists and non-communists, and then I explained the party structure, how it works with the rank-and-file, and the progressive groups in the union."

"Q. Now, at the end of that first day, you told me yesterday that they sent you in a taxicab to the doctor? A. Yes.

"Q. Is that what happened?

"A. Yes, that is correct. I went to the doctor in a taxicab.

"Q. Before you went to the doctor, did they tell you that they wanted to see you again?

"A. Yes; they made an appointment for the next day. [2883] You see, the reason why I was going to the doctor, when I was on the branch I threw my hip out of joint up in Alaska, and I had been quite a while on a ship before I could

(Testimony of Ray D. Shoemaker.)

get to a doctor; and I went to a doctor in Juneau and he didn't take no x-ray pictures and he just figured I had this *schiatric* rheumatism; and so when I got down to Seattle they had an ambulance waiting for me. They had to pick me off the ship. And so they drove me,—well, it wasn't an ambulance,—it was a Public Health Service car there. And so they took me up to the U. S. Marine hospital in Seattle. That is the U. S. Public Health Service. And I went in there, and I was in there,—I don't quite recall,—but I have got the hospital discharge. You see, when you go into the Marine hospital they give you a discharge when you come out, the length of time you were in the hospital. And I asked to be released so I could go to a private doctor. And so I went down and saw Bogle, Bogle & Gates. I believe they handle all the insurance and accident insurance; and so they sent me up to Dr. Buckner.

Q. This all took place before the first time you saw the FBI? A. Oh yes.

Q. Did Dr. Buckner proceed to give you treatments?

A. Well, Dr. Buckner examined me that day, and it was on a Thursday, and he told me to come back the next day, [2884] that he would have his x-rays all finished and everything. And so in the meantime I had gone down to Bogle, Bogle & Gates, and they told me that Dr. Buckner,—the next day,—on Friday,—they said he wanted to see me right away: —

(Testimony of Ray D. Shoemaker.)

Presiding Inspector: Read that after the word "Friday."

The Witness: (Continuing reading from shorthand notes):

"—they said he wanted to see me right away; and so I called him up,—that was about 9:00 or 10:00 o'clock in the morning,—I called him up and he says, 'You go right up to the Providence hospital,' and I says, 'What for?' and he says, 'Well, we have to manipulate you.' I says, 'What the hell is manipulating?' So he explained it that my hip had been out of joint and that he wanted me to get up there right away, because that afternoon he was going to put me under ether and,—well, it is not ether, either; it is a new stuff they shoot in your veins that makes you go to sleep. And so then I argued with him. I told him, I said, 'Hell! You acted like I was faking, so I will be up there at 1:00 o'clock in the afternoon. I have to go home and get some clothes and stuff.' And so he says, 'You make sure to be up there.' And so I went home and got a couple of suits of pajamas and shaving gear and stuff.

"Q. Did you go into the hospital?

"A. Then I come back and I went up to the hospital. [2885]

"Q. How long were you in the hospital?

"A. I think was in the hospital a couple of weeks.

"Q. During all the time you were under treatment by Dr. Buckner?

(Testimony of Ray D. Shoemaker.)

“A. Yes. And after I left the hospital I started taking treatments again from Dr. Buckner.

“Q. What kind of treatments?

“A. Well, he was giving me shots.

“Q. Shots of what? A. I don't know.

“Q. Was he also prescribing pills of any kind?

“A. No. I had a box of pills that I got up at the Marine hospital. And in Juneau,—the doctor in Juneau gave me a prescription, and I got, I think, a hundred of these,—oh, what the devil do you call them?—a sleeping pill. You take one or two and go to sleep, but if you take four it makes you higher than a kite.

“Q. Nembuthal? A. Nembuthal.

Presiding Inspector: How do you spell that?

The Witness: I spelled it, your Honor, N-e-m-b-u-t-h-a-l.

Mr. Del Guercio: Did the witness spell it?

The Witness: Sir?

Mr. Del Guercio: Did the witness spell it?

The Witness: No, the witness, didn't spell it.

[2886]

Mr. Gladstein: Just a moment! This is not the time for cross examination.

Presiding Inspector: Go ahead.

The Witness: “Q. That is the name you mentioned to me a while ago.

“A. Yes. Nembuthal. Those names are pretty hard.

“Q. Were you taking any more pills just before you saw the FBI agents for the first time?

(Testimony of Ray D. Shoemaker.)

"A. Yes.

"Q. How many pills at a time were you taking— A. I was taking—"

Presiding Inspector: Read that sentence again, that question.

The Witness: "Q. How many pills at a time were you taking?"

Presiding Inspector: I will correct that by writing the "a" over the word "that". The transcript reads "How many pills at that time were you taking?"

The Witness: Well, it is plain in my notes, your Honor, "at a time".

Presiding Inspector: All right.

The Witness: "A. I was taking four pills at a time.

"Q. How many times a day were you taking these pills?

"A. Oh, well, I was taking them four or five times a day, so I was all hopped up all the time.

[2887]

"Q. Was this to relieve the pain from your hip?

"A. Yes. I think, if I am not mistaken, Dr. Buckner prescribed some of these pills, too.

"Q. Let's go back for a minute to the first time you spoke to Mr. Medala and Mr. Dickstein, the FBI agents. That conversation was in their office in the Vance building? A. Yes.

"Q. And they told you—"

(Testimony of Ray D. Shoemaker.)

Mr. Del Guercio: May I interrupt right here again, please, your Honor. I object to the reading of these things.

Presiding Inspector: I will go on.

Mr. Del Guercio: It is so apparent.

Presiding Inspector: I won't allow any interruption. Go on.

The Witness: "Q. And they told you to come back the next day? A. Yes.

"Q. At what time?

"A. I believe it was in the morning.

"Q. Did you come back the next day?

"A. I did.

"Q. What happened?

"A. We were there a while and I,—well, I couldn't sit down very well. The hip bothered me. And so they asked me was my hip bothering me and I said 'Yes', and they suggested [2888] that we go up to the hotel room in the Roosevelt Hotel in Seattle, and so we rode up to the room in a taxi up to the Roosevelt Hotel, and we went up in their room. And that was on the 10th or 11th floor. Quite a ways up in the elevator.

"Q. What happened when you got into the room?

"A. Well, I got in the room and they had,—I believe,—yes, they did have a statement already typewritten out, and so—

"Q. What did they want you to do with the statement?

(Testimony of Ray D. Shoemaker.)

"A. Well, they wanted me to sign it.

"Q. Yesterday you told me that on this second day when the FBI agents saw you they told you that they wanted you to sign a statement in which you were to say that you had seen Harry Bridges pay his communist dues * * * *"

Presiding Inspector: What is the word—

The Witness: "Communist Party dues".

Presiding Inspector: All right.

The Witness: "Did they do that?"

"A. Yes. They mentioned that. Then I told them that I had never seen no Party book,—never seen Harry Bridges in a Party book, or ever pay party dues.

"Q. Did you read the statement, or did they read it to you? The statement that they had prepared?

"A. Well, to tell you,—the statement was already typed, so I glanced through it. And they asked me, 'Now, are [2889] there any mistakes?' And so I found some words misspelled and a few errors, and they told me to initial,—to make corrections and put my initials on each line where I made a correction.

"Q. Before that happened, you told me yesterday that they asked you whether you had been in meetings with William Schneidermann."

Presiding Inspector: No, read that again. "They asked you."

(Testimony of Ray D. Shoemaker.)

The Witness: "They asked you whether you had been in meetings with William Schneidermann."

Presiding Inspector: I will correct that by writing over the word "a meeting" the word "meetings".

The Witness: "A. Yes.

"Q. What did you tell them?

"A. I told them I had met Schneidermann."

Presiding Inspector: Is there anything before the words "I told them"?

The Witness: Yes. It looks like "Yes" here.

"I told them I had met Schneidermann.

"Q. You also told me they asked you whether you had been in meetings with Bridges?"

Presiding Inspector: Is that plural?

The Witness: Yes, sir. It looks like plural in my notes here. [2890]

Presiding Inspector: I will write the word "meetings" over "a meeting".

The Witness: "A. Yes; they asked me that, too, and I said, yes, I had been at meetings with Mr. Bridges, and then they asked me if there was any communist meetings I had been with Harry Bridges, and I told them that I had been at meetings."—"I had been with him"—no. "I had been,—the meetings I had been with him, there was communists in the meeting, such as myself, and there were non-communists, and all the meetings were pertaining to,—referred to the making up of agreements at the time. We were,—"

(Testimony of Ray D. Shoemaker.)

Presiding Inspector: Go back to the beginning of that sentence, the beginning of the answer.

The Witness: The beginning of the answer?

Presiding Inspector: Yes.

The Witness: "A. Yes; they asked me that, too, and I said, yes, I had been at meetings with Mr. Bridges, and then they asked me if there was any communist meeting I had been with Harry Bridges."

Presiding Inspector: "I had been"?

The Witness: Yes.

Presiding Inspector: "I had been with Harry Bridges"?

The Witness: Yes.

Presiding Inspector: Well, put a parenthesis around the word "at".

The Witness: The word "at"? [2891]

Presiding Inspector: Go ahead. It reads here "I had been at with Mr. Bridges".

The Witness: Oh, I see. I have no "at" in my notes.

"And I told them that I had been,—the meetings I had been with him, there was communists in the meeting, such as myself, and there were non-communists, and all the meetings were pertaining to,—referred to the making up of agreements at the time we were meeting at the ship owners of the waterfront unions,..."

Presiding Inspector: Well now, yes. After the break where it says "referred to the making up of agreements at the time"—

(Testimony of Ray D. Shoemaker.)

The Witness: "At the time when we were meeting at the ship owners".

Presiding Inspector: Well, "We were meeting at the ship owners of the waterfront unions"?

The Witness: Yes.

Presiding Inspector: Well, I will connect the word "time" by a little curved line underneath the word "we" which will indicate that, as the witness reads, there was no new sentence beginning with the word "we".

The Witness: That is right.

Presiding Inspector: Go ahead.

The Witness: "And, you see, we were meeting as a group, and that the sailors were going to try to break away at the [2892] time."

Presiding Inspector: And the what?

The Witness: "And the sailors were going to try to break away at the time."

Presiding Inspector: I will insert the word "time" after the word "the".

The Witness: That's right.

Presiding Inspector: With a period after that.

The Witness: Yes, sir.

Presiding Inspector: Go ahead.

The Witness: "Yesterday you told me that Mr. Medala and Mr. Dickstein asked you whether you had ever been in a meeting where Schneiderman and Bridges were present at the same time, and that you told them you never had."

"A. Yes.

"Q. Is that what happened?

(Testimony of Ray D. Shoemaker.)

"A. Yes; that is right.

"Q. And that was a truthful answer to their question?

"A. Yes. And as I told them, I had been,—I was taking in quite a few meetings at the time,—both communist and non-communist meetings,—and that I couldn't remember that I had ever been in a meeting where both Schneiderman and Bridges were there. Which is correct. I hadn't...

"Q. But the statement that you signed for the FBI agents contains a statement to the effect that you had sat in a meeting [2893] with Schneiderman and Bridges. That was untrue?

"A. Yes; but that isn't correct.

"Q. They had prepared that in the statement for you?

"A. Yes; and I never noticed it when I—

"Q. When you read it?

"A. Yes. You see, I want you to understand this, too. You see, when I read these statements I was gowd up. If you don't know what gowd up is,—I was taking these pills pretty heavy. I was in pretty bad shape. And so instead of using them for sleeping pills, if you double the dose it makes everything rosy then."

Presiding Inspector: Just read that again, after the words "sleeping pills."

The Witness: "If you double the dose it makes everything rosy then.

"Q. So you signed the prepared statement that they had for you?

(Testimony of Ray D. Shoemaker.)

"A. Yes.

"Q. And it contained statements that wasn't true, is that right?

"A. Correct.

"Q. Later on they had you sign two more statements, isn't that true?

"A. Correct.

"Q. Were those also prepared statements which were pre- [2894] pared by them in advance?

"A. Yes.

"Q. Did those two statements also contain untrue statements?

"A. They did.

"Q. And they had you sign those also?

"A. Yes.

"Q. Why did you sign all of those statements which they had prepared for you when you knew that those statements contained false statements?

"A. Why?

Do you want me to say what I put in my transcript?

Presiding Inspector: Yes.

The Witness: (The witness paused).

"Q. You knew they knew, when you were signing those statements, that those statements contained falsehoods, isn't that true? A. Yes.

Presiding Inspector: Read that again carefully.

"You knew and they knew, —"

The Witness: "You knew and they knew, when you were signing those statements, that those statements contained falsehoods, isn't that true"?

(Testimony of Ray D. Shoemaker.)

Presiding Inspector: I will change the "the" before the second word "statements" to "those."

The Witness: That's right. [2895]

Presiding Inspector: That is I will write the word "those" above it, "That those statements contained falsehoods, isn't that true?"

"A. Yes."

(Here followed informal discussion between Mr. Gladstein and the Presiding Inspector at the bench.)

Mr. Goodwin: Is that all?

The Witness: That is all the ones he asked me.

Mr. Del Guercio: I don't know what is going on, if the Court please.

Presiding Inspector: Nothing is going on. I say, you can come up here. I say, that ends the reading.

Mr. Myron: I think——

Presiding Inspector: Off the record.

(Remarks outside the record.)

Presiding Inspector: We will consider the question of admissibility when I have got the briefs. Of course, if you want to have the rest of this read you can read it yourself, if you want to show what Mr. Gladstein said to the witness when he made no response.

Mr. Del Guercio: I merely renew my motion to have the whole thing stricken.

Presiding Inspector: I will reserve decision on it.

(Testimony of Ray D. Shoemaker.)

By Mr. Gladstein:

Q. Now, Mr. Shoemaker, you have read up to a certain [2896] point the questions and answers that you heard at the time of this deposition on Sunday, the day before yesterday. Can you look through your notes and find whether there were subsequent questions asked?

Mr. Del Guercio: I object to the question, if your Honor please.

Presiding Inspector: I will allow that.

A. There were.

By Mr. Gladstein:

Q. Who asked those questions?

A. You did.

Mr. Del Guercio: I will object to that upon the ground it is immaterial and irrelevant.

Presiding Inspector: I will allow it.

By Mr. Gladstein:

Q. And during the time that I asked the questions that followed was Mr. Cannalunga in the office where the deposition was being taken?

Mr. Del Guercio: I object to that question as being incompetent and irrelevant.

Presiding Inspector: I will allow it. "Yes" or "No."

The Witness: May I qualify that statement, your Honor?

Presiding Inspector: Yes, you may qualify the statement.

A. He was in the office until you finished about

(Testimony of Ray D. Shoemaker.)

the first third of the last question and he left the room and didn't come back. [2897-8]

By Mr. Gladstein:

Q. Now, will you look at your notes and see whether just prior to the time that Mr. Cannalunga got up during the time that I was asking him a question and left, whether prior to that time he got up at one point while I was asking him a question, left the room and then came back?

Mr. Del Guercio: Just a minute, please! So that I won't need to repeat, if your Honor please, may the record show that I object to every question along this line?

Presiding Inspector: Yes. Yes, sir. You are quite right to object. I will note your objection, but I will allow the answer to be taken.

A. He left the room after—I just counted this up, and he left the room after you asked the twelfth question starting with the one he refused to answer.

By Mr. Gladstein:

Q. Let us go to the point, Mr. Shoemaker, where the last question and answer occur in your notes, which Judge Sears has allowed you to read, and so that it may be—it is the one I have reference to in which the question is "You knew and they knew—"

Mr. Myron: (Interposing) Just a minute! I think we excluded that and I don't think any question should be asked.

Mr. Gladstein: I don't think so. I don't think so.

(Testimony of Ray D. Shoemaker.)

Mr. Myron: We object to reading from it when it wasn't [2899] allowed to be read.

Mr. Gladstein: It was read by this witness and I am trying to direct him to the point at which I wish him to start.

Presiding Inspector: Read the last thing that was read.

Mr. Gladstein: Yes. The last thing is—

Mr. Myron: (Interposing) Is that one of the questions that has already been read?

Presiding Inspector: Yes.

Mr. Myron: And answered by him?

Presiding Inspector: Yes. This is one of the questions that was read.

Mr. Gladstein: Yes. And the answer was given. I want the witness to start with that question, "You knew and they knew, when you were signing those statements, that those statements contained falsehoods, isn't that true?"

"A. Yes."

By Mr. Gladstein:

Q. Have you got that point? A. Yes.

Q. Did I ask him a question immediately afterwards? A. You did.

Q. Was he in the room at the time I asked the question? A. He was.

Q. Did he answer that question?

A. He did not. [2900]

Q. Did I then ask him another question?

A. You did.

(Testimony of Ray D. Shoemaker.)

Q. Was he in the room when I asked him that question?

Mr. Myron: We object to all this line of inquiry. It is merely for publicity purposes.

Presiding Inspector: I don't know what it is for, but I will allow it.

Go ahead, Mr. Gladstein.

A. He was.

By Mr. Gladstein:

Q. Did he answer the question.

A. He did not.

Q. Did I ask him another question?

A. You did.

Q. This is the third one now?

A. Yes, sir.

Q. Was he in the room at that time?

A. He was.

Q. Did he answer that question?

A. He did not.

Q. Did I ask him a fourth question?

A. You did.

Q. Did he answer that question?

A. He did not.

Q. Was he in the room at that time? [2901]

A. He was.

Q. Did I ask him a fifth question?

A. You did.

Q. Was he in the room? A. He was.

Q. Did he answer it? A. He did not.

Q. Did I ask him a sixth question?

A. You did.

(Testimony of Ray D. Shoemaker.)

Q. Did he answer it? A. He did not.

Q. Was he in the room at that time?

A. He was.

Q. Did I ask him a seventh question?

A. You did.

Q. Was he in the room?

A. He was. Yes, he was.

Q. Did he answer it? A. He did not.

Q. Did I ask him an eighth question.

A. Yes, sir.

Q. Was he in the room?

A. He was.

Q. Did he answer it?

A. He did not. [2902]

Mr. Del Guertio: Is this an examination or what?

Presiding Inspector: This is evidence.

Mr. Del Guercio: Evidence?

Presiding Inspector: Yes. Go ahead.

Mr. Del Guercio: I don't know what evidence is.

Presiding Inspector: I am afraid not, but we will go on.

By Mr. Gladstein:

Q. Did I ask him a—

Presiding Inspector: (Interposing) At least it isn't evidence admitted fully yet.

By Mr. Gladstein:

Q. Did I ask him a ninth question?

Presiding Inspector: I want this witness to be excused so he can go back to court work.

A. You did.

(Testimony of Ray D. Shoemaker.)

By Mr. Gladstein:

Q. Was he in the room?

Mr. Del Guercio: We are ready to excuse him, your Honor, at any time.

A. He was.

Presiding Inspector: Now wait, Mr. Del Guercio! Counsel have a right to proceed when the Examiner has ruled that they are in order.

Go ahead, Mr. Gladstein, [2903]

By Mr. Gladstein:

Q. Now, I think you said I asked him a ninth question and that he was in the room. Correct?

A. That's right.

Q. Did he answer it?

A. He did not.

Q. Did I ask him a tenth question?

A. You did.

Q. Was he in the room?

A. He was.

Q. Did he answer it?

A. He said "Off the record."

Mr. Gladstein: Now, I think, your Honor, I have a right to ask the question and the answer since he said "Off the record."

Presiding Inspector: I think that is not an answer.

Mr. Gladstein: Well, that is his response to the question, your Honor.

Presiding Inspector: I don't know what it means.

Mr. Gladstein: I know. But don't I have a right to show what his response is? Suppose, for example he nods his head or he shakes his head or he says

(Testimony of Ray D. Shoemaker.)

"Off the record" or he says "Don't ask me that."

I mean, you may not regard the answer as directly responsive, but I think it shows the reaction of the deponent to the question and, therefore, we have a right to read the question and answer, whatever it might [2904] be.

Presiding Inspector: You already have it.

Mr. Gladstein: Not this one, Judge.

Presiding Inspector: This whole thing has been—it is your written document. Now you are wasting time here on this Mr. Gladstein, because you have got the full benefit as though it had been read, and this is all a waste of time in my judgment. But I am letting you try your own case. If I were trying this I would introduce the document or offer it and have it marked and go on to something else and not keep the Court or this proceeding going, but you have a right to proceed in your own way. And I will say that we have proceeded this way in the case of the other witnesses.

Mr. Gladstein: I think we have.

Presiding Inspector: Go ahead.

Mr. Gladstein: All right.

By Mr. Gladstein:

Q. Now, you say that there is a question to which he said "Off the record"? *

A. Yes, sir.

Q. That was his answer?

A. That is his answer.

Q. That is the only answer you have to that question?

(Testimony of Ray D. Shoemaker.)

Presiding Inspector: That isn't quite fair. Whether it is an answer or not, we don't know. That is for the person who reads the record to say. He said that after the question [2905] was asked.

By Mr. Gladstein:

Q. Is that correct, Mr. Shoemaker?

A. That's right.

Mr. Gladstein: All right.

Presiding Inspector: You see, you imply that that is an affirmative. That is not a necessary conclusion.

Mr. Gladstein: All right.

Presiding Inspector: At least I took it so.

By Mr. Gladstein:

Q. Then did I ask him another question?

A. You did.

Q. Was he in the room? A. He was.

Q. Did he answer it? A. He did not.

Q. Did I ask him another question after that?

A. Yes, sir.

Q. Was he in the room? A. He was.

Q. Did he answer it? A. He did not.

Q. Did I ask him another question after that?

A. You did.

Q. Was he in the room? [2906]

A. He was.

Q. Did he answer it? A. He did not.

Q. At that point did anything unusual occur?

A. He got up and left the room.

Mr. Del Guercio: I object to that question be-

(Testimony of Ray D. Shoemaker.)

cause the whole thing is unusual, not this particular moment necessarily.

Mr. Grossman: We will agree to that.

Presiding Inspector: I will allow that to go on the record. Go ahead.

By Mr. Gladstein:

Q. You say that he got up and he left the room?

A. He did.

Q. What do your notes show as to whether he returned or not?

A. They show that he returned in about three minutes.

Q. When you say he left the "room," do you mean by that that he went out of the office and then came back?

A. He went out of the office and came back in about three minutes.

Presiding Inspector: He went out of the office that you were in. That is, the room?

The Witness: Yes, sir.

By Mr. Gladstein:

Q. Was there another question after that?

[2907]

A. There was.

Q. Was there an answer?

A. There was not.

Q. Was there a question at about that time at which he made an answer to the effect that he "can answer"? Will you look at your notes on that, Mr. Shoemaker.

A. Oh, yes, yes. Do you want me to read that?

(Testimony of Ray D. Shoemaker.)

Q. Well, if it is a question that I asked and an answer which he gave.

A. "I can answer here," he said.

Mr. Myron: We will object to that.

Presiding Inspector: He said, "I can answer here."

Mr. Gladstein: All right. Then I think we have a right—

Presiding Inspector: (Interposing) What was he doing? Sitting down?

The Witness: He was standing by the door and counsel asked him to answer it, and he said "I can answer it here."

By Mr. Gladstein:

Q. Will you read the question?

A. "Q. Before you go I want to finish asking you a question. If you don't want to answer it, it is up to you. Will you please sit down so I can ask a question?"

A. I can answer here."

Mr. Gladstein: All right. Now, I maintain, your Honor, [2908] that that is subject to this inference. It is an invitation by the witness to be asked the question, and I have a right to read the next question that I asked him.

Presiding Inspector: I don't so construe it. It means that "I can stand right here without sitting down." "I can do just as well by you by standing up instead of sitting down." I think that is the plain meaning.

(Testimony of Ray D. Shoemaker.)

By Mr. Gladstein:

Q. Now, there was a last question, was there?

A. Yes, sir.

Q. During the course of my asking that question—withdraw that.

At the time I started to ask that question was the witness in the office? A. He was.

Q. By the time I finished asking that question was he in the office? A. He was not.

Q. What took place between the beginning and the end of that question? What did Mr. Cannalouga do?

A. He left the room when you started the question. You asked him about fifteen or twenty words and he left the room.

Q. Did he say anything as he left?

A. I didn't hear him say anything. [2909]

Q. Were those all of the proceedings that were had? A. Yes, sir.

Mr. Del Guercio: Your Honor, I object to the use of the word "proceedings."

Presiding Inspector: Of course, it wasn't a proceeding in a legal sense.

Mr. Del Guercio: In any sense.

Presiding Inspector: Well, you will have to go to the dictionary perhaps and find something—

Mr. Del Guercio: (Interposing) I challenge them to say what kind of a matter that was that was being held there.

Presiding Inspector: That is a mere matter of speech.

(Testimony of Ray D. Shoemaker.)

Mr. Gladstein: I think the witness has already testified that Mr. Cannalonga was sworn beforehand and it was a deposition, and I think those are usually known as "proceedings."

Presiding Inspector: Oh, it wasn't a "proceedings".

Mr. Gladstein: Cross examine.

Presiding Inspector: You may inquire.

Mr. Del Guercio: No cross examination.

Presiding Inspector: You are excused.

Mr. Myron: I think his notes were being held for identification.

Presiding Inspector: What is that?

Mr. Gladstein: I didn't offer them. [2910]

The Witness: May I say this, your Honor? That I have two other cases in this book.

Presiding Inspector: Do you want them kept here?

Mr. Myron: I think they should be.

Mr. Gladstein: You can tear them out as far as we are concerned. It is perfectly all right.

The Witness: If I tear them out—

Mr. Myron: (Interposing) If the transcript is to be marked for identification, I think the notes should be.

Mr. Gladstein: The transcript is in.

Presiding Inspector: Do you want them in?

Mr. Myron: I think they should be.

The Witness: If I get an appeal to the Supreme Court in this case, can I get my notes back from this Court?

(Testimony of Ray D. Shoemaker.)

Presiding Inspector: In this case?

The Witness: No. I have another case in this book.

Presiding Inspector: Don't leave them all. Tear them out.

The Witness: I can't tear them out, your Honor, because it is on the other side. It is written on both sides.

Presiding Inspector: They are on both sides?

Mr. Grossman: Why can't we put them in evidence with permission to the reporter to withdraw them and have photostatic copies substituted if it becomes necessary in this other case, if that is agreeable? [2911]

The Witness: If you want them I can leave them, but if they ever ask for an appeal to the Supreme Court I would have to have my notes.

Presiding Inspector: Very well. I am sure that Mr. Del Guercio, or whoever has these, will see that this is done.

Mr. Grossman: That is understood, then?

Presiding Inspector: Yes.

The Witness: All right.

The Reporter: Alien's Exhibit No. 14 for identification.

(The notes referred to were marked Alien's Exhibit No. 14 for identification.)

(Witness excused.) [2912]

Presiding Inspector: Call your next witness.

Mr. Gladstein: Could we have a recess now, your Honor?

Presiding Inspector: Yes.

(Whereupon a short recess was taken.)

Presiding Inspector: We are ready for the next witness.

Mr. Grossman: Your Honor, when the witness responded this morning to the subpoena I told him to wait in 207, though I didn't take him there. I assumed he went there, but he is not there now. It may take a moment or two to find out whether he is in the building. I haven't talked to him since. So I will make a search in the building for him.

Mr. Gladstein: Perhaps somebody could call for Officer Catherman.

Mr. Grossman: I suppose that is as effective as my looking for him.

Presiding Inspector: What is his name?

Mr. Grossman: Catherman.

Presiding Inspector: Is Mr. Catherman in the court room?

Call out in the hall for him, Mr. Officer.

A Guard: He is coming in the side door, your Honor.

Presiding Inspector: Mr. Catherman, come and take the stand. Raise your right hand.

CHARLES D. CATHERMAN

called as a witness on behalf of the Alien, having been first duly sworn, testified as follows: [2913]

Presiding Inspector: Give your name to the reporter.

The Witness: Charles D. Catherman—C-a-t-h-e-r-m-a-n.

Presiding Inspector: Your residence?

The Witness: 455 West Avenue 43, Los Angeles.

Direct Examination.

By Mr. Grossman:

Q. Mr. Catherman, were you served with a subpoena to appear in this proceeding?

A. I was.

Q. What did that subpoena ask you to bring to this hearing?

A. It mentioned some inter-department records, or something like that.

Mr. Goodwin: Speak louder.

A. Inter-department records, or something like that.

By Mr. Grossman:

Q. Have you brought any documents or papers in response to this subpoena? A. No, sir.

Q. Will you explain why you have not, Mr. Catherman?

A. I never had any documents of that kind in my possession at any time, and I went to the Chief of Police's office, where I was supposed to get permission, and he was out of town, and I only had a few hours' notice, and they said that I had no

(Testimony of Charles D. Cathermair.)

right to take any records like that out of the City.

[2914]

Q. Who said that?

A. That only the Chief of Police would have that right.

Q. Who said it?

A. That is what the Secretary told me, that I would have to see the Chief; that nobody had charge of the records except him.

Q. You mean the Secretary of the Chief of Police told you that?

A. Well, she said she thought I would have to see him; that she had no say-so about it.

Q. Can you state—

Mr. Del Guercio: (Interposing) I object to this line of questioning. The witness testified that he never had possession of the documents.

Presiding Inspector: This is under subpoena issued by the Inspector, on the recommendation of the Presiding Inspector of this proceeding. I will allow them to show—you remember that there was objection to it, as I think, to the pages of one of the Congressional Committee reports, and this is an attempt to produce an original memorandum, so I will allow it.

Mr. Del Guercio: The witness testified he never had possession of any of those records.

Presiding Inspector: It may open the way to introduce secondary proof. Go ahead. That is the only purpose of it, as I understand it. [2915]

(Testimony of Charles D. Catherman.)

By Mr. Grossman:

Q. Can you state the name of the Secretary to the Chief of Police with whom you talked about securing this document?

A. I think it is Miss O'Connor, but I wouldn't be positive of it. There is more than one secretary in there. I had never been in the office before.

Q. Now, exactly, what did she tell you, that you could not have such documents, or she thought you couldn't have such documents, or was it something else she said?

A. As near as I can recollect I asked to see the Chief. She said he was out. She wanted to know why, of course. I showed her the subpoena. She said, "You will have to see the Chief. He is the only one that can give authority to remove the records. You couldn't do it. You are only a common patrolman."

That is all there was to it.

Q. Did you discuss this subpoena and the documents with anyone else in the Police Department after receiving it? A. No, sir.

Q. Who is your superior officer in the Police Department?

A. Captain—I just got a new Captain where I am. I can't recall his name.

Q. Did you discuss this with him?

A. No, sir. I might state that I didn't discuss it with him at all. I got permission from the Lieutenant to come up here. [2916] I didn't even show him the subpoena because I didn't have time to go

(Testimony of Charles D. Catherman.)

back to the station. I called him up and told him that I had it.

Q. Then you didn't discuss with the Lieutenant the subpoena either?

A. Only that I had been called up—this Department, Immigration Department, called me and told me there was a subpoena up town for me.

Q. You didn't discuss with the Lieutenant whether you could or should procure the documents that were called for in the subpoena?

A. No, sir.

Presiding Inspector: Was this witness sworn before the Congressional Committee?

Mr. Grossman: No.

Mr. Del Guercio: Did you Honor ask whether this witness had been sworn before the Congressional Committee?

Presiding Inspector: Yes.

Mr. Del Guercio: There is no evidence that he was before that Committee.

Presiding Inspector: I asked if he was a witness before the Congressional Committee.

Mr. Del Guercio:—I thought you asked if he had been sworn.

Presiding Inspector: The inquiry was merely directed to the point as to whether he had ever been a witness before [2916—A] the Congressional Committee.

By Mr. Grossman:

Q. In September of 1937, Mr. Catherman, what kind of work were you doing?

(Testimony of Charles D. Catherman.)

A. Well—

Mr. Del Guercio: (Interposing) Just a moment. I object to the question.

Presiding Inspector: I will allow it.

Mr. Del Guercio: I object to the question as immaterial, and no foundation having been laid for it.

Presiding Inspector: I will allow it.

Mr. Grossman: You may answer.

A. I was working mostly on strike detail.

Presiding Inspector: Working on strike detail, he said.

By Mr. Grossman:

Q. Were you in the office most of the time, or outside most of the time?

A. Outside most of the time.

Q. Did that strike duty include receiving reports over the telephone, giving information about those strikes, or about any strikes?

Mr. Del Guercio: I object to the question.

Presiding Inspector: I will allow it.

Mr. Del Guercio: It is too general.

Presiding Inspector: It may be rather general, but I will [2917] allow it.

The Witness: I don't quite understand the question.

By Mr. Grossman:

Q. Were you at that time a patrolman in the Los Angeles Police Department? A. I was.

Q. Did you, during that period, that approximate period, about September 1936-1937, receive

(Testimony of Charles D. Catherman.)

telephone calls as part of your duty giving you information about strikes?

Mr. Del Guercio: I will object to that question, too, your Honor, as being too general—conversation with whom and about what?

Presiding Inspector: I will allow it. I think it is fairly definite.

Mr. Grossman: ~~Then~~ I will make it more definite.

By Mr. Grossman:

Q. Was it part of your duty or, rather, did you, as part of your duty, in approximately September of 1937, receive any telephone calls at the Police Department concerning strikes?

Mr. Del Guercio: I will object to that as immaterial. No strike is at issue in this case. It is immaterial whether he did or not.

Presiding Inspector: I will allow it. It is merely preliminary to an attempt to prove a certain conversation.

A. Well, I will say I did. I answered the phone at times. [2918]

By Mr. Grossman:

Q. Were you in the office at regular times of the day, or was it accidental as to what times you would be in and what times you would be out?

A. For just a short time, while one of the officers was on vacation, I worked from midnight until morning, what they call the morning watch, just answering the telephone.

(Testimony of Charles D. Catherman.)

Q. For how long a time?

Mr. Del Guercio: May I suggest, if your Honor please, that if he wants any conversation with any particular person that he ask if he had any conversation over the telephone?

Presiding Inspector: I won't confine him. Of course, he may have no recollection of this, and they may show him a document and ask him if it actually refreshes his recollection so that after having looked at it he can report what occurred, if anything did occur.

Go ahead.

By Mr. Grossman:

Q. For how long a period were you on the mid-night shift receiving telephone calls?

A. Well, I would say during September and probably part of October.

Q. Was this in connection with your strike detail?

A. Well, I would consider it so because I never was regularly assigned to the Intelligence Unit. I belong to the [2919] Reserve Unit and was loaned out to them, the same as lots of other officers were, when they needed extra men to work strike duty.

Q. When you say "strike duty," do you mean duty under Lieutenant or Captain Hynes?

A. Yes, sir.

Q. He was your immediate superior, was he, at all times when you were working on strike duty?

A. Yes; except he had other officers under him

(Testimony of Charles D. Catherman.)

that had the same authority, but he was considered the main authority.

Q. All right. Now, when you received these telephone calls when you were on the midnight shift, did they all deal with strikes; or did they deal with other police business?

Mr. Del Guercio: I submit, your Honor, that that is none of counsel's affair as to what they dealt with, unless it is something particular in connection with this case. If they dealt with other matters we are not concerned with them.

Mr. Grossman: I haven't asked what the other matters were, and I don't intend to.

Presiding Inspector: I will allow it. Go ahead.

A. Well, the messages were mostly about strike details, how many men they needed, and where they needed them, and things like that; but there were all kinds of messages that came over the phone.

By Mr. Grossman: [2920]

Q. Did some of these messages come from police officers?

A. Most all of them did as far as I know.

Q. Did any of them that you recall come from informers who gave information to the Police Department?

A. I wouldn't know.

Q. When you received these messages wasn't it your practice to find out from whom the message came?

A. No, sir.

Q. Did you make a memorandum of these messages as to each message when it came in?

(Testimony of Charles D. Catherman.)

A. No memorandum. I just wrote down what the message was and left it on the desk.

Q. Well, did you write down what each message was after it came in?

A. Oh, yes. I had to do that because I didn't have any contact with anyone to deliver them otherwise.

Q. What were your orders with respect to what notations or writing you should do about telephone calls that came in on that midnight shift?

A. Just to leave them on the desk.

Q. Were you instructed to make some kind of a written note or memorandum about each telephone call?

A. No, sir.

Q. Were you given any instructions about leaving any notes showing what the telephone call was about? [2921]

A. No, sir.

Q. That was your own idea, was it, in so far as you followed it, in making notes of telephone calls?

A. No. That was all the instructions I had, was to take any message that came over and leave it on the desk, because I left before anybody showed up in the morning to take charge of it.

Q. Was there an officer in charge of the midnight shift who was your immediate superior during the midnight shift?

A. No, sir. I was the only one in the office. I will say at times there were other officers there waiting on strike duty call, but I was the only one there that would receive messages at that time.

(Testimony of Charles D. Catherman.)

Q. Did you ever receive any messages with the information from the person who was telephoning that he wished you to put a number on the memorandum that you made to describe who he was?

A. Not in just that way.

Q. Did you ever receive a message and make a written memorandum which, instead of giving the name of the caller, gave a number? A. I did.

Q. How many times did that happen?

A. I couldn't say.

Q. Do you remember any of these numbers?

A. Some of them. [2922].

Q. Which ones do you remember?

Mr. Myron. I object to that—which ones he can remember. That might reveal confidential information that isn't in issue in this case.

Mr. Grossman: He is not giving any confidential information to state whether it was X, Y or Z.

Presiding Inspector: I will allow it. There has been some testimony about it.

Mr. Grossman: Yes.

By Mr. Grossman:

Q. What numbers do you remember, or what letters, in case they used letters, do you remember?

Presiding Inspector: If you remember any.

Mr. Grossman: He said he remembered some.

By Mr. Grossman:

Q. What numbers or letters do you remember?

A. Sometimes they would say, "This is No. 40," or "No. 50," or "No. 100." I imagine it was all

(Testimony of Charles D. Catherman.)

the same person, from the sound of their voice, but that wasn't any of my business and I just put down what they told me.

Q. Do you recall a message from B-50, a message from someone who stated he was B-50?

A. I remember No. 50, 50 and 100; because they are easier to remember than other numbers. They came in more often.

Q. Mr. Catherman, I am going to show you some writing [2923] that purports to be something that you have written.

Presiding Inspector: Hadn't you better exhaust his recollection first? You are going to lead him now.

Mr. Grossman: That is right. I don't mind exhausting his recollection.

By Mr. Grossman:

Q. Do you remember whether, on September 16, 1937, you received a telephone message at about 12:00 midnight from someone claiming to be B-50?

A. I couldn't remember that long back any certain date, or any certain message.

Q. Do you remember receiving, about September 16, 1937, a message dealing with a strike, rather, a ~~scheduled strike~~ at the Moody Bed Company?

A. No, I can't say that I recollect the Moody Bed Company. I worked lots of those strikes, but that don't sound familiar to me.

Q. Do you remember any occasion, in September of 1937, when someone who did not give his name,

(Testimony of Charles D. Catlerman.)

but only gave his number or letter, to describe himself, told you that there was a strike scheduled to begin the next morning? Do you remember any such message?

A. No. I don't see how I could remember anything definite like that. Any message that came like that had my initial, my signature on the message. They never gave me any [2924] information. They asked—if you will let me explain?

Q. Yes.

A. They always asked if Captain Hynes was there, or any member of the Intelligence Unit, when the messages came over, because I suppose they wanted to talk direct. When I would say, "No," they would say, "Take a message." I wrote down whatever they said and that is all there was to it.

Q. Do you remember receiving any telephone message which was not from a Police Officer, which told you of a strike that was going to take place but hadn't yet started, or was going to take place?

A. No, I don't remember anything like that.

Q. For whom did you leave these notes of these telephone conversations, or addressed to whom did you leave these notes?

A. They were not addressed to anyone. I just left them on the desk. I presume they were for Captain Hynes. We call him "Captain" Hynes.

Q. Do you remember any telephone calls approximately September of 1937 in which the caller stated that he would call the next night for instructions as to what to do?

(Testimony of Charles D. Catherman.)

A. No. I don't remember that.

Mr. Del Guercio: If your Honor please—well, I will withdraw the objection.

Presiding Inspector: He doesn't remember.

[2925]

Mr. Grossman: For the record I am referring to something which appears on page 23577 of the Reports of the LaFollette Committee, Part 64.

By Mr. Grossman:

Q. I will now show you what purports to be a memorandum signed by you, Mr. Catherman, and ask you whether you recognize this memorandum as one that you did sign or have something to do with having drawn up?

Mr. Del Guercio: Now, your Honor, I object to the form of the question. That is a printed matter appearing in that book.

Presiding Inspector: If it actually refreshes his recollection he may use it.

Mr. Del Guercio: He said, "That you signed." There is nothing there to indicate that he signed it.

Presiding Inspector: Bearing his name.

The Witness: I would like to ask a question before I answer.

Mr. Grossman: You may.

The Witness: This message has a heading there "B50, Captain Hynes or Lieutenant Wellpott". I never wrote any message like that. The body of

(Testimony of Charles D. Catherman.)

the message is similiar to messages I received. And down here (indicating): at the bottom, that part of it is where I usually finish them up. [2926]

By Mr. Grossman:

Q. Is there anything else about the form that you think is inconsistent with forms you were using at about that time?

A. We had no forms. We just used any piece of scratch paper.

Q. I don't mean forms in the sense that they were printed. I mean forms in which you would give the information. Is there anything else about that that seems different from the way you did do it around September of 1937?

A. No, it is about the same.

Q. Are you certain that you never did write a memorandum at that time or around that time which had the names of Captain Hynes or Lieutenant Wellpott at the top?

A. No. I am not certain. Two years and a half is a long time to remember. I have got too many messages to remember.

Q. What would happen if you received a telephone call and the caller stated "I have a message for Captain Hynes or Lieutenant Wellpott"? Was it your practice to put those two names somewhere in your memorandum?

A. No, sir; because it is my understanding that whichever one of them arrived at the office in the

(Testimony of Charles D. Catherman.)

morning would immediately go to the desk and take those notes up.

Q. Were there any other persons to whom these tele- [2927] phone messages were directed, not by you but by people who were phoning in the information? A. No.

Q. Except Wellpott and Hynes?

A. Messages like that, I wouldn't want to say because we got so many messages there. Some of them for any member of the Intelligence Unit. It might be Luke Lane or half a dozen others. But usually messages like this, why, they were for Hynes, I imagine, because nobody else would have any use for them.

Q. Let us suppose a message came in which the sender said was for Luke Lane. Would you place a memorandum of that conversation on the same desk as you would—

Mr. Del Guercio: (Interposing) I object to the question.

By Mr. Grossman:

Q. (Continuing) —as you would if the message were directed to Captain Hynes?

A. Absolutely.

Mr. Del Guercio: Just a moment before you answer the question.

Presiding Inspector: I will allow it.

Mr. Del Guercio: I didn't state my— (Pause).

Presiding Inspector: Do you want to state the objection?

(Testimony of Charles D. Catherman.)

Mr. Del Guercio: No, never mind.

Presiding Inspector: You may, Mr. Del Guercio. [2928.]

Mr. Del Guercio: Well, you have already ruled on it, so that is all right.

By Mr. Grossman:

Q. Then this is correct, is it, Mr. Catherman? That no matter whom the message was directed to it was your practice not to state on the memorandum the name of the person that the message was supposed to go to?

A. I never thought it necessary because—

Q. (Interposing) I want to know what your practice was.

A. That was the practice. But in order not to get me wrong, it is possible that I could have written that on there, but not as a practice.

Q. Well, you see, I have asked you these questions—

A. (Interposing) Yes.

Q. (Continuing) Because you made a statement before when I was asking you about this particular document that—I don't know how definite you were, but you stated at least doubt that you had written "Captain Hynes" or "Lieutenant Wellpott" at the top. A. I just—

Mr. Del Guercio: (Interposing) That is incorrect. That isn't the witness' statement.

(Testimony of Charles D. Catherman.)

Presiding Inspector: The record will speak for itself.

Mr. Grossman: That is why I wanted the witness to [2929] repeat once more.

By Mr. Grossman:

Q. Is it possible that your memorandum about that time would have at the top the name or names of the officers to whom the message was directed?

A. It's possible, but I just can't recollect ever doing it. It wasn't my practice.

Q. Now, you have read this document which claims to have your name at the bottom?

A. Yes, sir.

Mr. Del Guercio: I will object to that, may it please your Honor. That is not a document. There is no evidence here—

Mr. Grossman: (Interposing) If you want to suggest a word to be substituted for "document"—

Mr. Del Guercio: } (Interposing) I am speaking to the Court.

Mr. Grossman: (Continuing) —I am perfectly willing to substitute any word for "document" if Mr. Del Guercio will be satisfied. I just want to ask a question.

Mr. Del Guercio: There is no evidence here that any such document, such as what is purported to be shown by this book, was ever given to the La-Follette Committee.

(Testimony of Charles D. Catherman.)

Presiding Inspector: I suppose that is true.

Mr. Grossman: Under the theory of Mr. Del Guercio, Mr. [2930] LaFollette is a Communist and makes up things like this. But I am supposing that something published by the LaFollette Committee at least establishes prima facially some basis for belief that such document was actually copied by the LaFollette Committee. Although Mr. Del Guercio will admit that Senator LaFollette will do things like that we will submit proof that Senator LaFollette will not do things like that.

Presiding Inspector: I don't think that is quite in order. The question which you are trying to get is whether that document you have in your hand, not this particular memorandum but that document, actually refreshes this witness' recollection of what occurred.

Mr. Grossman: That is right.

Presiding Inspector: When you get to it I suppose you will show it to him.

Mr. Grossman: I did once, but I want to now ask him whether it refreshes his recollection at all. That is what I was starting to say.

Mr. Del Guercio: And counsel has stated that I have said that LaFollette is a Communist or he is implying that. Well, that should be stricken from the record. What I have said is that he is a Communist.

Mr. Grossman: Your Honor, if we are going to strike things from the record—

(Testimony of Charles D. Catherman.)

Presiding Inspector: (Interposing) The rule requires [2931] that arguments shall not be included in the record, and ultimately all this persiflage back and forth will be stricken out. Only the objections and the rulings, not the argument.

Go ahead.

By Mr. Grossman:

Q. Now, Mr. Catherman, having read this do you still testify that you cannot recall receiving such a message in approximately September of 1937?

A. I cannot remember that individual message, but I did receive messages similar to that. There is no doubt about that.

Q. You mean this particular one? You can't now recall this particular message, receiving this particular message?

A. No. There was too many messages came in similar, for me, to remember any individual one unless there was something to recall my mind, like that there heading. I should remember it if I ever addressed a particular message, but I just can't remember ever doing it.

Presiding Inspector: Let me see that.

Mr. Grossman: Yes, your Honor.

(The document referred to was passed to the Presiding Inspector.)

By Mr. Grossman:

Q. Does the number "B50" refresh your recol-

(Testimony of Charles D. Catherman.)

lection as [2932] to whether you ever received a similar message to that from a person claiming over the telephone to be described as "B50".

A. Oh, I received messages signed "B50."

Q. You do recall receiving telephone messages under the description of "B50"? A. I do.

Presiding Inspector: Is this referred to in oral testimony?

Mr. Grossman: Well, Mr. Chase was confronted with that, and to that extent it is referred to.

Presiding Inspector: I don't mean in this record. I mean in the LaFollette report.

Mr. Grossman: My understanding is no, your Honor.

By Mr. Grossman:

Q. Now, your testimony is, Mr. Catherman, that all these memoranda that you did prepare from telephone messages that came in were put on a single desk in the office in which you were working?

A. Yes, sir.

Q. And that was a desk that was used by Captain Hynes? and by Lieutenant Wellpott?

A. That is the desk where I use—where the telephones were.

Q. Is that the place on which, according to your instructions from your superior officer, you should leave messages? [2933] A. Yes.

Q. And were you instructed to leave messages for Captain Hynes, Lieutenant Wellpott and Luke Lane on that desk?

(Testimony of Charles D. Catherman.)

A. All messages that came in were left there.

Q. Now, I don't want to get you wrong. Is it your testimony that no matter whom the message was for in the Police Department the message was to be put on that same desk?

Mr. Del Guercio: If your Honor please, I will object to that. It doesn't matter what counsel thinks whether he is getting him wrong or not. The witness has already testified to that and it is a repetition. It has been asked and answered.

Presiding Inspector: Well, yes, that is so.

Mr. Grossman: I will say this, your Honor:—

Mr. Del Guercio: (Interposing) If counsel wants to refresh his memory he can ask the reporter to read it.

Mr. Grossman: Your Honor, the only reason I asked him was his statement that it was not his custom to write the name of the officer to whom it was directed on the top. Otherwise I wouldn't even have pressed it. I want to make sure that all messages were to go on a particular desk instead of being spread out.

Presiding Inspector: Well, that is what he has testified to, as I understand it.

That is right, isn't it? [2934]

The Witness: Yes, sir.

Presiding Inspector: They were all put out on one desk?

The Witness: I just left them there and when

(Testimony of Charles D. Catherman.)

they came in in the morning long after I was gone home they got the message.

Presiding Inspector: Yes.

By Mr. Grossman:

Q. Did you have a printed form for use in the Los Angeles Police Department in approximately September of 1937 which had at the top of it "Los Angeles Police Department, Office Of....." with a line for writing the name of the particular officer? A. I did not; no, sir.

Q. Do you recall ever seeing such a form?

A. No, sir.

Q. Do you remember any form used in the Los Angeles Police Department in September of 1937 which carried at the top the words, "Intra-Departmental Correspondence"? A. No, sir.

Q. Did you or did you not ever use a printed form in writing and leaving these memoranda of the telephone conversations when you were on this midnight shift? A. I don't understand.

Q. Do you ever use a printed form to write these messages out? [2935]

Mr. Del Guercio: I will object to that upon the ground that it has been asked and answered. The witness has already testified that he never used a printed form.

Presiding Inspector: I think he said he never used a printed form. If there is any doubt about it, did you ever?

(Testimony of Charles D. Catherman.)

The Witness: I don't understand what he means.

Presiding Inspector: Did you ever use a printed form?

The Witness: You mean to type it?

Presiding Inspector: No. A form which was furnished with a printed heading?

The Witness: No, I never done anything like that.

Presiding Inspector: What kind of paper did you have?

The Witness: Any kind of scratch paper that we happened to have.

Presiding Inspector: Very informal?

The Witness: Yes, sir. Papers, old reports; used the back of old reports and things.

By Mr. Grossman:

Q. Was it your custom, Mr. Catherman, at that time to sign these notes?

A. Yes, sir; either the name or initial.

Q. Was it your custom to sign such notes "Catherman"?

A: I usually did.

Q. Was it your custom to put the time on which the [2936] message came in alongside your name?

A. At the bottom of the report; yes, sir.

Q. And was it the custom to place the name of the person making the report to you over the telephone at the bottom of the report near your name?

A. That's the way I remember it.

Q. Was it your custom ever to put the descrip-

(Testimony of Charles D. Catherman.)

tion of the person who had made the telephone call at the top of the report or near the top of the report?

A. I never done anything like that.

Q. Are you sure about that or do you just not remember?

A. You mean—

Mr. Del Guercio: (Interposing) Your Honor, he just testified that he doesn't remember ever doing anything like that.

By Mr. Grossman:

Q. Are you sure?

A. I don't know what you mean by a description of a person.

Q. Let me show you this as an example, and I am again showing you the same document. Did you ever do anything like that with the description?

A. You mean like this (Indicating)?

Q. Yes, like the placing of "B50" at the top of this message?

A. No. I always put it down there (Indicating), as I [2937] remember.

Q. You don't recall ever doing that?

A. No, sir.

Q. Did you ever at any other time take telephone messages in this way except for this brief period when you were on the midnight shift?

Mr. Del Guercio: Just a moment! I object to that "In this way". Does he mean in the way indicated by the report of the LaFollette Committee?

(Testimony of Charles D. Catherman.)

Mr. Grossman: No, the general way.

Presiding Inspector: No, as he testified.

Mr. Grossman: In the same general way.

Presiding Inspector: As he has testified.

By Mr. Grossman:

Q. Did you at any other time have the job of receiving messages over the telephone in the same general way you did during September of 1937?

A. No, sir.

Q. Did you ever discuss with Captain Hynes or Lieutenant Wellpott or Luke Lane this subpoena after you received it?

Mr. Del Guercio: Just a minute! I object to that as being asked and answered. The witness has already testified that he hadn't discussed it with anyone.

Presiding Inspector: He said he hadn't discussed it with anybody but the Secretary. [2938]

Mr. Grossman: I wanted to be specific, your Honor. I wanted it to be made specific.

Presiding Inspector: That includes everyone from the President of the United States to the humblest citizen, except this woman.

Mr. Grossman: All right. I will let that stand.

A. Well, I would like to make a statement on that.

By Mr. Grossman:

Q. Yes, there is no objection.

(Testimony of Charles D. Catherman.)

Presiding Inspector: If there is someone else, then you will correct it.

A. I have not discussed this case with anyone.

Presiding Inspector: Oh, we are not talking about this case.

The Witness: When I heard I was going to be subpoenaed, when they called me, why, I did call Captain Hynes. I call him "Captain". And asked him what it was all about. The only thing he says "I don't know but what I read in the papers and you have read that, too".

By Mr. Grossman:

Q. Did you tell him about the subpoena?

A. I hadn't seen it yet. I told him that I had been called on the phone and notified that I was going to be subpoenaed in the Bridges case and asked him if he knew what it was all about. He says "No, I don't, only what I read in the papers".

[2939]

Q. At that time did you know what the subpoena said? A. No, sir.

Q. How did you happen to call Captain Hynes about it?

A. Because I couldn't figure out any other reason why they would subpoena me.

Q. Is Captain Hynes now your superior officer? A. No, sir.

Q. How did you happen to associate Captain

(Testimony of Charles D. Catherman.)

Hynes with the hearing in the Bridges deportation case?

Mr. Del Guercio: If your Honor please, I submit what difference does it make? He could call up anybody and discuss the matter with him.

Presiding Inspector: What is the point of this?

Mr. Grossman: I would like to know the point, your Honor. He doesn't call his superior officer, he doesn't know what is being asked.

Presiding Inspector: Is this to affect the credibility of your witness?

Mr. Grossman: I am not making any charges about whether this document is or is not being concealed, but we have a subpoena and we have a right to obtain it.

Presiding Inspector: Yes.

Mr. Grossman: Now, if he calls a man who, incidentally, may have custody because, obviously, the memorandum was written to this man, with no logical explanation being given as to [2940] why he calls him, then it may go to the question of why we don't have the document produced here. Especially, as I say, is it illogical that he would call this man not knowing what kind of testimony or document he was being asked to bring, because he didn't know at that time.

Mr. Del Guercio: There is no evidence of the existence of such a document in this case, if your Honor please.

(Testimony of Charles D. Catherman.)

Mr. Grossman: Except the LaFollette Committee report.

Mr. Reporter, will you read the question?

(The question referred to was read by the reporter as above recorded.)

Presiding Inspector: If you can answer that, you may.

A. Just because I worked up there in his office and I knew he received those messages and in some way connected with that kind of work or something. I don't know.

By Mr. Grossman:

Q. How did you know that the subpoena for you to testify dealt in any way with any of the messages that you received for Captain Hynes?

Presiding Inspector: Well now, isn't that a little bit deceptive, or might he not take it as such? The subject of his testimony that was being sought was that.

Mr. Grossman: Yes.

Presiding Inspector: Of course, the subpoena hadn't been [2941] presumably issued at that time.

By Mr. Grossman:

Q. How did you know that the testimony that you were going to be asked to give would deal in any way with any message that you gave to Captain Hynes?

A. I did not know anything of the kind.

(Testimony of Charles D. Catherman.)

Presiding Inspector: What did they say to you over the telephone?

The Witness: Hynes?

Presiding Inspector: No, not Hynes. When you got the telephone message about coming up as a witness what was said to you?

The Witness: They said they had a subpoena for me to come up here and testify in the Bridges case, and did *they* want *me* to send it out or should I come up there after it?

Presiding Inspector: Did they tell what was in the subpoena?

The Witness: Not at that time, no. That is the reason I called back.

Mr. Grossman: I would like to have read back the answer as to why he called Captain Hynes, from which I want to ask further questions. May I have that read, Mr. Reporter?

Presiding Inspector: Yes.

The Witness: I told you just—— [2942]

Mr. Grossman: (Interposing) Just a moment!

(The answer referred to was read by the reporter as follows: "A. Just because I worked up there in his office and I knew he received those messages and in some way connected with that kind of work or something, I don't know.")

By Mr. Grossman:

Q. That is the answer you gave, Mr. Catherman.

(Testimony of Charles D. Catherman.)

when I asked you why you happened to get in touch with Mr. Hynes.

Mr. Del Guercio: That is obvious. The reporter has just read it, if your Honor please.

Mr. Grossman: That is the beginning of my question, Mr. Del Guercio.

Presiding Inspector: He is getting a running start. Go ahead.

By Mr. Grossman:

Q. Now, when you said "that kind of work" in reply to that question, what kind of work did you mean?

Presiding Inspector: He specified that heretofore, I think, did he not?

Mr. Grossman: I don't think he has.

Presiding Inspector: Was it a strike detail?

Mr. Grossman: I want to know if that was what he meant.

Presiding Inspector: I think that is what he already said.

By Mr. Grossman: [2943]

Q. Were you referring to the strike that Captain Hynes had to do with labor matters and that was the kind of work?

A. Yes, sir.

Mr. Del Guercio: I will object to that as being leading, your Honor.

Presiding Inspector: I will allow it.

A. (Continuing) I didn't know anybody else that would know anything about it except him.

[2944]

(Testimony of Charles D. Catherman.)

By Mr. Grossman:

Q. You figured—withdraw that. Did you get in touch with Captain Hynes for advice because you figured that on the question of Bridges Captain Hynes had an interest and had done some work?

A. No.

Mr. Del Guercio: Just a moment, please.

Presiding Inspector: He said "no."

Mr. Del Guercio: I suggest that the witness be cautioned not to answer when I am about to interpose an objection.

Presiding Inspector: When counsel wants to object just wait before you answer.

By Mr. Grossman:

Q. Did you get in touch with Captain Hynes because you felt that Captain Hynes' work was connected with labor unions and strikes, and you felt that this Bridges case dealt with those same questions?

Mr. Del Guercio: Just a moment. I object to the question.

Presiding Inspector: I don't think this witness is hostile.

Mr. Grossman: I don't think—

Presiding Inspector: I don't think you ought to lead him quite that way.

Mr. Grossman: If I add the words "whether or not" it makes it proper for direct examination.

[2945]

Presiding Inspector: Oh, no. Many questions have "whether or not" in them.

(Testimony of Charles D. Catherman.)

Mr. Grossman: Well, it will be a little more laborous, but I am willing to ask more general questions.

Presiding Inspector: I think the whole thing is so obvious.

Mr. Grossman: It is not obvious to me why he got in touch with Captain Hynes, when he was not his superior officer, on a matter he was not supposed to know anything about.

Mr. Myron: The answer was read back.

Mr. Grossman: I am proceeding on the basis of that answer.

By Mr. Grossman:

Q. What different kinds of work have you done between 1937 and 1941, Mr. Catherman, in the Police Department?

Mr. Del Guercio: I object to that. It makes no difference what kind of work he has done.

Presiding Inspector: Is this cross examination?

Mr. Grossman: No.

Presiding Inspector: Why do you want to know that?

Mr. Grossman: I want to know the different kinds of work he did with which this subpoena may have been concerned. If that was the only kind of work he did it would be quite logical and rational that he would get in touch with his superior officer and ask him.

Presiding Inspector: Why not ask him whether there had [2946] been other strike assignments? I think he said there hadn't been.

(Testimony of Charles D. Catherman.)

By Mr. Grossman:

Q. For how long a period have you worked under the direction of Captain Hynes?

A. I worked—I can't remember just what date those strikes began, but I worked strike duty up until some time in October.

Q. Of which year?

A. I thought it was 1938. You spoke of 1937, I believe.

Q. Yes.

A. That must have been 1938 that I worked up there.

Q. Let us not worry about that now. Can you give me the total time—

Mr. Del Guercio: (Interposing) I don't think that remark, "Let's not worry about that now" is proper.

Mr. Grossman: All right, we will strike the remark.

Presiding Inspector: It is a manner of speech.

By Mr. Grossman:

Q. What was the total number of months or years that you worked under the direction of Captain Hynes?

A. Well, approximately '36, '37 and '38.

Q. Approximately those years. And you haven't worked under the direction of Captain Hynes since 1938?

A. No, sir. [2947]

Q. Did you ever receive a report over the telephone to be transmitted to Captain Hynes, or Lieu-

(Testimony of Charles D. Catherman.)

tenant Wellpott, or Luke Lane, or any other member of that squad, from a person who stated his name was Chase? A. Not that I recall.

Q. Do you know of your own knowledge who R 50 is? A. I do not.

Q. Or was? A. No, sir.

Q. Do you know of your own knowledge the name of any person who gave you messages over the telephone under a number or a letter?

A. I don't know any of them.

Q. Where was Captain Hynes when you telephoned him the request for some information on this subpoena?

Mr. Del Guercio: If your Honor please, I object to the form of the question. There was no such testimony that he requested such advice.

Mr. Grossman: I will withdraw that.

By Mr. Grossman:

Q. Where was Captain Hynes when you telephoned him?

A. You mean in what division he worked out of?

Q. Where was he at the time?

Presiding Inspector: Where did you call him on the telephone, at his house, or at his office, or at the theater—where [2948] was he?

A. I can't tell that. I had to call the Personnel Bureau to get his telephone number. They gave me the number, and I called him.

(Testimony of Charles D. Catherman.)

By Mr. Grossman:

Q. I see. Now, except for Captain Hynes, and except for one of the Secretaries of the Chief of Police, did you talk to anyone else on the question of whether you should or could bring documents to this hearing, or whether you should or would come up here to testify?

Mr. Del Guercio: Just a moment. I object to that question as having been asked, not once, but several times by counsel.

Presiding Inspector: I will allow it. Go ahead and answer it.

Mr. Myron: And the further objection that it is leading and misleading at the same time.

Presiding Inspector: It is leading, but I will allow it.

Mr. Myron: Whether he should bring records—he stated already—

Presiding Inspector: Whether he talked about whether he should or whether he could.

Mr. Myron: He already stated he had no custody of the records and inquired about them and he couldn't bring them.

Presiding Inspector: I will take it. He might have talked about it to someone, even though he didn't have the power. Go [2949] ahead.

The Witness: May I have the question again?

Mr. Grossman: To save time I will rephrase it.

By Mr. Grossman:

Q. I asked you whether you got in touch with

(Testimony of Charles D. Catherman.)

anyone besides Captain Hynes or the Secretary of the Chief of Police, on the question of the subpoena, or the documents, or your coming up to testify?

A. What I tried to make clear was that I hadn't discussed the case with anyone.

Q. I am not asking about your discussion of the case. I want to know whether you discussed any one of these three things, your coming up to San Francisco, the subpoena, and what you should do about it, or could do about it, or the documents that the subpoena asks for. Did you discuss any of those three matters with anyone except Captain Hynes and the Secretary to the Chief of Police?

A. I think I know what you mean. After I could not get in touch with the Chief I decided that I should do everything I could, so I went upstairs in the same building to the City Attorney's office, and I asked him, and he also told me that the Chief of Police had that authority.

Q. Do you know the name of the man you saw in the City Attorney's office?

A. No; just one of the attorneys there. I wouldn't know [2950] his name.

Presiding Inspector: Did you show him the subpoena?

The Witness: I did.

By Mr. Grossman:

Q. And can you state again what his opinion was that he gave to you, if any?

Mr. Del Guercio: If your Honor please—

(Testimony of Charles D. Catherman.)

Presiding Inspector: He said that only the Chief of Police could give up the documents.

By Mr. Grossman:

Q. In addition to those you have mentioned, did you discuss these matters with anyone else?

A. Absolutely with no one.

Q. At the time you were working under Captain Hynes do you know who had custody of the documents of that department, including the memorandum such as you prepared, the memoranda such as you prepared? A. No.

Q. Did Captain Hynes have a separate set of files that was separate from the other files in the Police Department?

Mr. Del Guercio: I object to that, if your Honor please. We are not interested in what files he had.

Presiding Inspector: Does he know anything about that?

Mr. Grossman: I don't know whether he does or not. The reason I asked is I have heard there were two at least, maybe [2951] several, sets of files and for the purpose of following up the document, and finding it, it is all I am asking for, for the purpose of a further subpoena, if necessary. I want all the information I can get as to where it might be.

Presiding Inspector: Do you know where they keep such memoranda as you made?

The Witness: I don't know anything about it.

Presiding Inspector: Do you know anything about Captain Hynes' files?

The Witness: No, sir; nothing.

(Testimony of Charles D. Catherman.)

Presiding Inspector: Anything further?

Mr. Grossman: That is all.

Presiding Inspector: Any questions, Mr. Del Guercio?

Mr. Del Guercio: Do you want to adjourn now?

Presiding Inspector: No; we will go along.

Mr. Del Guercio: No cross examination.

Mr. Grossman: There is one question we must raise—

Mr. Del Guercio. (Interposing) Is this redirect?

Mr. Grossman: It is not redirect.

Presiding Inspector: There was no cross examination. He has asked a privilege of asking one more question.

Mr. Grossman: It is for the witness' sake.

When we discussed the matter of the issuance of this subpoena with the Director or Commissioner, Mr. Wixon, he raised the question of the fee of the witness and referred us to the [2952] rule, which has given us much trouble, because it requires an interpretation. He communicated with Mr. Catherman somehow, through an agent, I think, in Los Angeles, and the question was discussed as to the amount of the witness fee, or witness expenses.

As a result of his various conversations, or his agents, with Mr. Catherman, we gathered the impression that Mr. Catherman believed that he was entitled to, under the rule, transportation expense in the amount of 5 cents a mile.

(Testimony of Charles D. Catherman.)

We told Mr. Wixon that we interpreted the rule, when it said "Transportation expenses," to mean actual outlay for transportation because we didn't interpret the rule to mean that the witness should make a profit.

He said since there was a discussion something had to be done. We agreed, and we deposited with Mr. Wixon a sufficient sum to cover the transportation expenses, and the other expenses, assuming we are wrong, that 5 cents a mile is due. But we took the position he was not entitled to give Mr. Catherman that because we wanted a decision by your Honor, and your Honor is the only one that can decide as to what the witness is entitled to.

The money is in Mr. Wixon's possession. If your Honor orders it, we have no objection.

Presiding Inspector: I don't think that falls within my jurisdiction. [2953]

Mr. Grossman: All I can say is that at the last hearing Dean Landis assumed the prerogative, at least since no one else felt capable of deciding this question, and we accepted the decision, and we will accept your decision this time, your Honor.

It is not a legal question, true.

Presiding Inspector: I really do not think that falls within my jurisdiction.

Mr. Grossman: It has to for this reason: We are obliged to insist on our interpretation of it, and that means going to the Federal District Court to decide whether the witness can ignore the subpoena if we refuse to pay him more than his actual outlay.

(Testimony of Charles D. Catherman.)

Presiding Inspector: He hasn't ignored it.

Mr. Grossman: Otherwise, we are going to have to insist that this witness receive only the actual outlay, which is insisting on our position.

We prefer you to decide whether our position is correct.

Presiding Inspector: I don't think I have the power. I have been assigned to advise the authorities on this particular warrant, and not pass on the fees to the witnesses.

Mr. Grossman: May I ask this witness now what he is claiming for transportation expenses?

Presiding Inspector: I don't think that is material here. He isn't claiming anything but what he deems his just rights, [2954] I fancy. There is a difference of opinion evidently as to how—

Mr. Grossman: (Interposing) There may not still be a difference. That is what I would like to find out.

Mr. Gladstein: Can't we ask the witness this question, your Honor—and I will put it to him now and you can rule that he doesn't have to answer if he doesn't want to.

Don't answer it until His Honor rules.

Mr. Myron: Does this all have to be on the record?

Mr. Grossman: It can be off the record if you wish.

Presiding Inspector: Off the record.

Mr. Gladstein: I think this is a matter that in-

(Testimony of Charles D. Catherman.)

volves a right of ours under the statute and I think it ought to be on the record.

Presiding Inspector: Very well. You may ask the question.

Mr. Gladstein: Mr. Catherman, we would like to know whether you are asking the defense to reimburse you for your actual outlay, whatever it may be, for transportation up here, or whether you are claiming a certain amount per mile, even though you didn't come up by automobile?

Presiding Inspector: You don't have to answer to that.

Mr. Del Guercio: I object to that as not being, first of all, proper direct, cross examination or re-cross examination of this witness. [2955]

Presiding Inspector: It isn't claimed that it is.

Mr. Del Guercio: Then it has no place in this record at all.

Mr. Grossman: Have you an interest in whether this witness obtains from us 5 cents a mile or less?

Mr. Del Guercio: Don't talk to me; talk to the Court.

Mr. Grossman: That is directed to you.

Mr. Del Guercio: You are not asking me questions.

Mr. Grossman: I don't see why Mr. Del Guercio is interested that this witness should get more money than he actually spent. I think this is between the witness and ourselves.

Presiding Inspector: I don't see that it is material to the hearing now in process of completion.

(Testimony of Charles D. Catherman.)

Mr. Grossman: It is material in this sense: If it is not settled here and now we are going to have to insist on this, which will undoubtedly mean the procedure of going to the District Court. We are going to have to insist in our interpretation of the rule in the logical way, which is that we are responsible to pay a witness' actual transportation expenses, and not 5 cents a mile. This question will arise whenever we ask for a subpoena and that is why we would like to have it settled one way or the other, and we are willing to abide by the ruling your Honor makes without objection to it or argument against it. [2956]

Presiding Inspector: Well, I haven't the statute before me.

Mr. Grossman: I think we have the rules here.

Mr. Del Guercio: Does the Court want to know what the Government is paying? because that is passed upon by the Comptroller General.

Presiding Inspector: Before I decide that, but I am not sure that I am going to decide it at all. I will exclude the question so far as this hearing is concerned.

(Witness excused.)

Now, we will take a recess until tomorrow morning at 10:00 o'clock.

(Whereupon, at 4:15 P. M. an adjournment was taken until Wednesday, May 7, 1941, at 10:00 A. M.) [2957]

Harry Bridges vs.

Court Room 276,
Federal Building,
San Francisco, California,

May 7, 1941.

Met, pursuant to adjournment, at 10:42 A. M.
[2958]

PROCEEDINGS

Presiding Inspector: Mr. Gladstein, call your next witness.

Mr. Gladstein: Yes, your Honor.

Mr. Horn, will you take the stand, please?

Presiding Inspector: Raise your right hand.

JOHN S. HORN

called as a witness on behalf of the Alien, having been first duly sworn, testified as follows:

Presiding Inspector: The witness is yours.

Direct Examination

By Mr. Gladstein:

Q. Mr. Horn, will you please state your full name?

A. John S. Horn—H-o-r-n.

Q. And your address, please?

A. 124 East 59 Place, Los Angeles.

Q. Are you a man of family.

A. I am.

Q. Will you please state what your family consists of?

(Testimony of John S. Horn.)

A. Four boys, two daughters, a wife and a mother-in-law.

Q. And do all of them, or most of them, reside with you at the address you just mentioned?

A. Two daughters reside with me, and my mother-in-law, and two sons are in the army and two others in the Civil Service. [2959]

Q. Mr. Horn, what is, at the present time, your occupation?

A. Secretary — Corresponding Secretary and Business Representative of the Beer Drivers Union.

Q. Is that the full title of that organization?

A. International Union of United Brewery Workers of America.

Mr. Gladstein: Did you get all of that, Mr. Reporter?

The Reporter: Yes.

By Mr. Gladstein:

Q. How long have you occupied that position with the Beer—what is that again?

A. Beer Drivers Union.

Q. (Continuing) —with the Beer Drivers Union? A. Twenty-seven.

Q. Twenty-seven years?

A. Twenty-seven years. [2960]

Q. Did your connection with the labor movement commence prior to the time that you began to occupy that position?

A. No. My first affiliation with the American labor movement was 1919—1899, I should say.

Q. 1899? A. Yes.

(Testimony of John S. Horn.)

Q. And have you since that time been continuously connected with the American labor movement in one way or another? A. I have.

Q. Was there any period of time during which you were not connected with it?

A. Yes. There was approximately three years in which I was on a withdrawal card.

Q. Were you in the United States at that time?

A. Yes.

Q. Have you ever served in the armed forces of the United States?

A. I have; Spanish-American War.

Q. What positions have you occupied in the labor movement?

Mr. Del Guercio: I will object to the question. The labor movement is not an issue in this case.

Presiding Inspector: No. He is merely showing the [2961] standing of the man in the community, I suppose.

Mr. Gladstein: That's right, your Honor.

Presiding Inspector: And for that purpose and for that purpose solely I will admit it. Of course, there may be a serious question later on about all this testimony.

Mr. Gladstein: I beg your pardon?

Presiding Inspector: I say, there may be a very serious question about the admissibility of the ultimate matters which are referred to in the subpoena.

Mr. Gladstein: We will come to that.

The Witness: What was the question?

(Testimony of John S. Horn.)

(The question referred to was read by the reporter as above recorded.)

A. I have been a member of the Executive Board of the Los Angeles Central Labor Council for a number of years.

By Mr. Gladstein:

Q. During what period was that?

A. From approximately 1917 to '25.

Q. Did you ever hold an office other than as member of the Executive Board when you were in the Central Labor Council in L. A.?

A. Secretary-Treasurer of the Los Angeles Central Labor Council.

Q. During what period of time was that?

A. From January, 1920 to July, 1925. [2962]

Q. Now, that Central Labor Council during all that time was affiliated, was it not, with the American Federation of Labor?

A. Yes. It is the chartered body of the American Federation of Labor in the Los Angeles district.

Q. And is it still at the present time?

A. It is.

Q. What other offices have you held in the labor movement?

A. Well, I was also Vice-President of the Central Labor Council for a period of years; member of the Executive Council of the State Federation of Labor on several different occasions, several different years.

Q. Briefly in a word, Mr. Horn, what is the State Federation of Labor?

(Testimony of John S. Horn.)

Mr. Del Guercio: I will object to the question.

Presiding Inspector: I think we know about that. We can take judicial notice of it.

Mr. Gladstein: Take judicial notice of it?

Presiding Inspector: Oh, yes. It is a matter of history of the country.

Mr. Gladstein: All right. I am satisfied.

Presiding Inspector: Don't you think so?

Mr. Gladstein: I have never heard that judicial notice was taken of—

Presiding Inspector: (Interposing) Of the history of [2963] a country?

Mr. Gladstein: I mean the State Federation of Labor. I don't mean history of the country, but what the State Federation of Labor is.

Presiding Inspector: Federation of Labor?

Mr. Gladstein: Not the American Federation of Labor.

Presiding Inspector: Oh, I supposed that that is what you meant. I misunderstood you.

Mr. Gladstein: No, the State Federation of Labor.

Presiding Inspector: Very well.

By Mr. Gladstein:

Q. Will you state briefly what that is?

A. The California State Federation of Labor is the chartered body in the State of California of the American Federation of Labor. It is the California division of the American Federation of Labor.

(Testimony of John S. Horn.)

Q. And during what period of time did you occupy a position in the Executive Council of the State Federation?

A. In 1922, '23, '24 and, I think, in 1934. I am not positive of those dates, but that is approximately correct.

Q. Were you also the occupant of the position of one of the Vice-Presidents of the State Federation of Labor subsequent to 1934?

A. Possibly in '35 or '34. I am not positive, Mr. Gladstein. [2964]

Q. Was there a period of time, Mr. Horn, when both you and Mr. Harry Bridges were members of the Executive Council of the State Federation of Labor? A. Yes.

Q. Was that period shortly prior to the time that Mr. Bridges was appointed West Coast Director of the CIO? A. Prior to that.

Q. And that year was the year 1937, was it not?

A. To the best of my recollection that is correct.

Q. Have you held any public offices, or served in any public capacity?

A. Civil Service Commissioner of the City of Los Angeles.

Q. When was that?

A. In 1924. Member of the Board of Public Works of the City of Los Angeles, 1925 to 1929.

Q. Any other positions?

A. I am now Commissioner No. 1 on the Unemployment Reserves Commission of the State of California representing organized labor.

(Testimony of John S. Horn.)

Q. Will you briefly state what that Commission is, briefly state what its structure is?

—Mr. Del Guercio: I object to this line of questioning as unnecessary, irrelevant and immaterial.

Presiding Inspector: I think it is a little detailed. [2965]

Mr. Gladstein: This is for the purposes of identifying the witness.

Mr. Del Guercio: There is no question about identification.

Presiding Inspector: I think the structure of the State Commissions—I suppose you can put that in by reference to the statutes.

Mr. Gladstein: I will withdraw the question.

Presiding Inspector: We take judicial notice of the statutes, certainly.

Mr. Gladstein: I will put it this way—the statute won't give the names of the men on it.

Presiding Inspector: He says he is one of them.

Mr. Gladstein: I think, perhaps, for my purposes it would be sufficient if I asked this question, your Honor.

By Mr. Gladstein:

Q. That Commission, that Unemployment Reserves Commission that you have just mentioned, and of which you are a member, is a Commission consisting of five people, two of whom represent organized labor, two represent the interests of the Employers of the State of California, and one represents the general public, and the general work of

(Testimony of John S. Horn.)

that Commission is to administer the Unemployment Insurance Act of the State, is that not a fact?

A. That is correct. [2966]

Mr. Del Guercio: I object to that.

Presiding Inspector: I will take it. It is simply to show the standing of this witness.

By Mr. Gladstein:

Q. Now, Mr. Horn, you are personally acquainted, are you not, with Mr. Bridges?

A. Yes.

Q. About how many times have you met him?

A. I have been in several meetings with him, personal contact, I think, on four different occasions.

Q. Were those occasions meetings, or conventions, or conclaves, of one kind or another, of trade unionists in the State of California? A. Yes.

Q. Do you know what the reputation of Harry Bridges for truth and veracity is—

Presiding Inspector: "Yes" or "No".

Mr. Gladstein: I haven't finished the question.

Presiding Inspector: I just wanted to warn the witness not to answer. Go ahead with the question.

Mr. Gladstein: I haven't finished the question.

By Mr. Gladstein:

Q. I want you to state whether you know, "Yes" or "No", what is the reputation of Harry Bridges for truth and veracity in the labor movement. [2967]

Mr. Del Guercio: I object to the question at this time.

(Testimony of John S. Horn.)

Presiding Inspector: Excluded. Go ahead and ask the next question.

Mr. Gladstein: On what basis?

Presiding Inspector: His character hasn't been attacked.

Mr. Gladstein: If your Honor please, could I state—

Presiding Inspector: You can't produce supporting evidence of good character for truth and veracity unless his character has been attacked. There has been no attack on his character.

Mr. Gladstein: May I be heard on that?

Presiding Inspector: Yes.

Mr. Gladstein: In the first place, we think that the very fact that the Government has introduced in evidence certain portions of the transcript of the last hearing brings those issues, and related issues, in that case into this hearing.

Now, I don't suppose it will be denied that in that hearing the character and reputation of Mr. Bridges for truth and veracity was obviously under attack.

Presiding Inspector: I don't know whether it was or not. I don't think it was.

Mr. Gladstein: Dean Landis, in his opinion, points out that there was this conflict and in the decision of—

Presiding Inspector: There is a conflict in evidence, [2968] but that isn't an attack on character. Even though one man says it was one day

(Testimony of John S. Horn.)

and another man says it was another day, that is no attack on character.

This is very elementary.

Mr. Gladstein: It may be but—

Presiding Inspector: I will exclude the question.

Mr. Gladstein: May I finish my statement for the record?

Presiding Inspector: All right, but it won't be in.

Mr. Gladstein: Why?

Presiding Inspector: Because the rule says it should not go in.

Mr. Gladstein: Then let it be off the record.

Presiding Inspector: That isn't the point. You can present a brief on the subject and argue it at the end of the case.

Mr. Gladstein: But I haven't finished stating why you should permit the question to be answered at this time.

Presiding Inspector: I thought you were arguing.

Mr. Gladstein: I am giving my reasons why I think your Honor should reconsider your decision.

Presiding Inspector: Go ahead.

Mr. Gladstein: In the first place, the Government has attempted to produce here proof which, in a general way, is to the effect that all Communists lie on the witness stand; and the Government claims that Harry Bridges is a Communist. [2969]

Now, I think that the inference is quite plain as to what the Government's contention is. That

(Testimony of John S. Horn.)

obviously brings into issue the question of the truth and veracity of Mr. Bridges. That is point No. 1.

Point No. 2 is this: We are not without difficulties and handicaps in preparing our schedule of witnesses. We have a theory of our defense. I think we have a right to present, to adopt a method of procedure with respect to our witnesses which is in accordance with that theory.

Now, if your Honor feels at the conclusion of the case that certain testimony which has been adduced at the hearing is subject to being stricken out, I think either on the motion of the Government or on your own motion, you probably have that right. But I think that we are entitled to have this much conceded to us: That we be permitted to put on this case in the manner in which we are presenting it, having in mind the difficulties we have in getting witnesses to appear, and for reasons which I could be more specific about, and that if, at the end of the case, you feel that any witness has given testimony which you consider immaterial in the light of the case as it stands before you at the end, then you can strike it. But I think it would be putting the defense to an undue hardship not to permit the witness to give his testimony at his time, but to require us to bring him back at some future time when the issue, which we feel reasonably sure is going to [2970] be raised and, according to our view, has already been raised in this proceeding, will be more sharply raised by the Government. [2971]

(Testimony of John S. Horn.)

Presiding Inspector: What do you say about that?

Mr. Del Guercio: The issue has not been raised, if your Honor please.

Presiding Inspector: No. I think not, too. I agree with you on that.

I think the issue is not raised. The only question is whether I should allow this out of order. But, of course, you are relying on a rebuttal which we don't know will ever occur. There may be no attack on Mr. Bridges' character or on his reputation for truth and veracity, as I understand the record.

Mr. Gladstein: Well, if at the end of the Government's case no such attack is made I will be willing, your Honor, to stipulate that testimony adduced by us on that issue may be stricken on your motion. I am reasonably confident that—

Presiding Inspector: (Interposing) Was there direct testimony of that character introduced on the Landis hearing?

Mr. Gladstein: In the sense that witnesses—

Presiding Inspector: (Interposing) Did any witness take the stand and testify that his reputation for truth and veracity was bad?

Mr. Del Guercio: They did not.

Mr. Gladstein: Not that way.

Presiding Inspector: Then I will exclude—

Mr. Gladstein: (Interposing) Well, your Honor,— [2972]

Presiding Inspector: Then I will exclude this examination now.

(Testimony of John S. Horn.)

Mr. Gladstein: Now wait, your Honor! Even if you do, I want to point out that in that hearing, as well as in this, the Government's theory was to produce a witness who would call Harry Bridges a Communist and then to have that witness say that Communists are taught to lie on the witness stand and to deny their membership in the Communist Party, and if that is not a pretty direct attack on the truth and veracity of Mr. Bridges I don't know of one, because at the very beginning of the hearing, you will remember, Dean Landis points it out, Mr. Bridges was called to the stand and was asked as to whether or not he had ever been a member of the Communist Party.

Now, in view of that state of the record and in view of that theory of the Government, your Honor, I think that an appropriate and liberal interpretation of the rule should be to permit us to put in this testimony at this time.

Mr. Del Guercio: I think counsel is right, if your Honor please, when he says that a Communist—of course it would be. Our theory is that Mr. Bridges is a Communist; would, if going on the stand, he would lie following the Communist Party tactics. But not Bridges as the other man. If counsel will concede that Bridges is a Communist, then I think this would be admissible. If that's his defense— [2973]

Mr. Gladstein: Is that intended to be an answer to my argument?

(Testimony of John S. Horn.)

Mr. Del Guercio: Yes, it is.

Mr. Myron: I think, your Honor, his argument is predicated on that fact, that Mr. Bridges is a Communist by the admission of counsel, and that if he does go on the stand he will as a Communist lie. I think that's the basis of his argument.

Mr. Gladstein: Your Honor, I don't like to characterize counsel's remarks.

Presiding Inspector: No, I don't think that is quite the basis.

Mr. Gladstein: But I think we ought to have a semblance of intelligence shown by counsel and not to descend to a second grade level.

Mr. Del Guercio: Now, that remark—

Presiding Inspector: (Interposing) I can't accept such an argument as that and you ought not to make it.

Mr. Gladstein: I will point this out. In the first statement that Mr. Del Guercio made, whether he intended to do so or not, he conceded in effect that the theory of the Government is that they are claiming that Mr. Bridges is a liar, they are claiming that Mr. Bridges is a Communist.

Now, that is their claim and the fact that they have [2974] not yet produced—

Presiding Inspector: (Interposing) That may be so. That may be so.

Mr. Gladstein: Then, if that is so—

Presiding Inspector: (Interposing) But that isn't a direct attack on the witness as a witness.

Mr. Gladstein: Well, if your Honor please, you

(Testimony of John S. Horn.)

are now telling me that in accordance with the strict rules of common law you would be bound to rule a certain way. Well, of course, in accordance with the strict rules of common law such a theory as the Government propounds here would never be accepted. You are conducting here an administrative proceeding and, of course, there isn't anything very clear as to how your ruling should be. I realize that it is discretionary. But in view of counsel's statement conceding the correctness of our contention as to their theory, do you not think that in fairness to the defense you should permit us to have the questions answered and then, if you later feel,—if you later feel—that the record requires that you can strike that testimony out. It will save time, it will save a great deal of expense to the defense and a great deal of inconvenience to the witnesses and it will make it possible for us to put on a defense.

I don't think by the time we finish this case, Judge, that there is going to be any question but that Mr. Del Guercio [2975] and Mr. Myron will be making very plain contentions about Mr. Bridges.

Presiding Inspector: They undoubtedly will, but that isn't sufficient to open a door to rehabilitating testimony. To open a door to such rehabilitory testimony there must be testimony, direct testimony to the contrary. That is the common law rule and it is well established and I think that it rests in fairness.

(Testimony of John S. Horn.)

Mr. Gladstein: Judge, would you admit that if one of the witnesses of the Government had taken the stand and had said "Mr. Bridges is a liar! I wouldn't believe him under oath!", something of that sort, that we would then have a right to have testimony of the character I am now trying to elicit from the witness?

Presiding Inspector: Yes.

Mr. Gladstein: All right.

Presiding Inspector: If Mr. Bridges were put on the stand or if you agreed to put him on the stand I would admit him out of order.

Mr. Gladstein: Well, Mr. Bridges will take the stand before the hearing is over. I assure you.

Presiding Inspector: I assumed that that was probably so.

Mr. Gladstein: He most certainly will.

Now, if the only question is a question of order, then I [2976] again ask the indulgence of the Court to grant us in your discretion what I think is not an unfair advantage of any kind. How can the Government be hurt by this?

Presiding Inspector: I don't suppose the Government is going to put on any such testimony.

Mr. Gladstein: I don't know what they are going to put on. I wouldn't be surprised at anything they put on.

Mr. Del Guercio: I object to that argument here.

Presiding Inspector: It doesn't affect me.

Mr. Del Guercio: You are permitting counsel here to argue and argue.

(Testimony of John S. Horn.)

Presiding Inspector: I am. And I will permit you to argue to the contrary.

Mr. Gladstein: Here is another thing I would point out, too. I suppose we are entitled to the same right and courtesy that the Government has on the question of order of proof.

Presiding Inspector: Yes.

Mr. Gladstein: Now, there are two primary issues in this case. One is a question, well, now it has been broadened so that mere association with somebody who belonged to a trade union that may or may not have been affiliated with such organization at one time makes a person deportable. But, primarily, I think the issues are: [2977]

1. Whether or not Mr. Bridges has ever been a member of the Communist Party or affiliated with it, and

2. Whether that Party advocates certain doctrines which are obnoxious to the deportation statute.

Your Honor will recall that practically the entire first week of this hearing, on which issue did the Government proceed? The first? No, not the first but the second.

Now, conceded, if the Government at the beginning of the case—we could have asked that the Government put on its case as to Mr. Bridges without regard to the second issue, in which we had no interest, instead of spending the week on the matter. But I supposed they deemed it better for their purposes to put on testimony concerning the second issue.

(Testimony of John S. Horn.)

Well, all right. Now, if they are going to put on evidence out of order, out of logical order or what could be expected from them, why can we not ask the same courtesy?

Presiding Inspector: I would be inclined to agree with you if it were merely a question of order. But I can have no assurance that there is going to be any evidence offered which will make this competent.

Mr. Gladstein: If that is your ruling I would like for the purpose of the record, first, to ask the questions which I intended and then, if your Honor rules as you have indicated,—

Presiding Inspector: (Interposing) I think you have that right.

Mr. Gladstein: (Continuing) —I will make an offer of [2978] proof and then you can deny the offer and then the record will at least be in that condition.

Presiding Inspector: I will let you ask the questions.

Mr. Gladstein: Yes.

Presiding Inspector: This question is excluded.

Mr. Gladstein: Well, I don't know whether the question is nearly as I want it, Judge.

Presiding Inspector: Well, re-ask it or let the reporter read it.

Mr. Gladstein: Well, I would prefer to ask it again.

(Testimony of John S. Horn.)

By Mr. Gladstein:

Q. Mr. Horn, do you know of your own knowledge the reputation enjoyed by Mr. Harry Bridges for truth and veracity in the labor movement among those workers with whom Mr. Bridges has worked and been in contact?

Mr. Del Guercio: I object to the question, your Honor.

Presiding Inspector: I will sustain the objection.

Mr. Gladstein: I offer to prove at this time that, if the witness were permitted to answer that question, his answer would be "Yes".

Mr. Del Guercio: I object to that statement of counsel, if your Honor please.

Presiding Inspector: I won't take the proof.

Mr. Gladstein: Well, but you don't object to my stating [2979] the offer of proof?

Presiding Inspector: No. It is objected to and I sustained the objection.

Mr. Gladstein: You sustained the objection to the proof?

Presiding Inspector: Yes.

Mr. Gladstein: But, as I understand it, Mr. Del Guercio also objects to my stating my offer.

Presiding Inspector: No. You stated your offer.

Mr. Gladstein: Well, you are not excluding any offer from the record?

Presiding Inspector: Oh, no. I didn't understand that that was what—

Mr. Del Guercio: (Interposing) I didn't say anything about the offer.

(Testimony of John S. Horn.)

Presiding Inspector: No, I didn't so understand.

By Mr. Gladstein:

Q. Now, is that reputation which was requested in the last question for truth and veracity good or bad?

Mr. Del Guercio: I object to that question, your Honor.

Presiding Inspector: I sustain that objection.

Mr. Gladstein: I now offer to prove that, if the witness were permitted to answer that question, his answer would be "Good". [2980]

Mr. Del Guercio: I will object.

Presiding Inspector: I will sustain the objection.

By Mr. Gladstein:

Q. Mr. Horn, based on the reputation for truth and veracity of Mr. Harry Bridges, which is called for in the last two questions, would you believe him under oath?

Mr. Del Guercio: I object to that question on the same ground.

Presiding Inspector: I will sustain the objection.

Mr. Gladstein: I now offer to prove that, if the witness were permitted to answer the last question, his answer would be "I would".

Mr. Del Guercio: I object.

Presiding Inspector: And I will sustain the objection.

Now, all these rulings, I will state, are made on the ground that there is no proper foundation for the introduction of such testimony in this case.

(Testimony of John S. Horn.)

Mr. Gladstein: I wonder if we could do this? I am thinking now of the possibility that at some future date your Honor will feel that the record is such that the kind of testimony I am now seeking to adduce from Mr. Horn would be material and admissible under your own ruling. I am wondering whether it is possible, in order to prevent the necessity of having Mr. Horn back again, because he is a man of public [2981] office and a busy person,—

Presiding Inspector: (Interposing) I am sure that no one wants to incommode Mr. Horn. No one wants to incommode him.

Mr. Gladstein: I am wondering whether it is possible to make some stipulation to the effect that such testimony as I have stated in my offer of proof would have been given by the witness were he permitted to answer the questions.

Presiding Inspector: That would be for Mr. Del Guercio.

Mr. Del Guercio: We will make no such stipulation.

By Mr. Gladstein:

Q. Now, Mr. Horn, do you recall in the fall of 1937 attending a meeting on West Washington Boulevard in the office or hall of the Warehouse Union? A. I do.

Q. What kind of meeting was that?

A. An organizational meeting.

Q. When you say "organizational meeting" what organizations do you refer to?

(Testimony of John S. Horn.)

A. Well, there was a number of organizations attending, representative organizations, for the purpose of discussing and organizing a program to bring workers into the trade union movement.

Q. Were all the organizations represented at this meet- [2982] ing referred to affiliated with trade unions?

A. To the best of my knowledge.

Q. How many such meetings in the fall of 1937 did you attend?

A. I don't quite get the question.

Q. I will put it to you this way: With reference to these meetings was there an organizing committee, to your knowledge, that had been set up?

Mr. Del Guercio: I will object to the question, if your Honor please. It should be confined to specific meetings and not general meetings.

Mr. Gladstein: This is preliminary.

Presiding Inspector: Well, I don't quite understand the question.

Mr. Gladstein: It is preliminary.

Presiding Inspector: How many meetings of organizing character were there?

Mr. Gladstein: If it is that ambiguous I will withdraw it.

Presiding Inspector: Perhaps I didn't hear it.

Mr. Gladstein: Perhaps it was too ambiguous.

By Mr. Gladstein:

Q. I asked you, Mr. Horn, whether you had attended in the fall of 1937 a meeting in the Warehouse Union Hall in Los Angeles on West Wash-

(Testimony of John S. Horn.)

ington Boulevard. Now, did you attend [2983] one or more than one such meeting in that period at that place? A. Only that one.

Q. Only one. When you came to that meeting were you representing any trade union?

A. Yes. The Beer Drivers' Union, Local 227, Branch 6.

Q. Do you recall how you came to attend, how you were invited to it?

A. Only on the telephone invitation that there was a meeting of some trade unionists to an organization meeting of trade unionists and would I like to appear. And I said I would and did appear.

Q. Was there this situation prevalent at that time in Los Angeles? That there was somewhat a turmoil with respect to certain A. F. of L. Unions going to the CIO and general questions of organizing unorganized workers?

Mr. Del Guercio: I object to the question as being suggestive and leading.

Mr. Gladstein: It is on an immaterial matter.

Presiding Inspector: It is merely preliminary. I think I will take it.

Mr. Gladstein: All right. It is on a relatively immaterial matter and preliminary.

Presiding Inspector: Yes. Preliminary. I will take it. [2984]

(The question referred to was read by the reporter as above recorded.)

A. Very markedly so.

(Testimony of John S. Horn.)

By Mr. Gladstein:

Q. I didn't hear. A. Very markedly so.

Q. Now, do you recall about what time you came to that meeting?

A. Oh, approximately 10:45, I would say. That is only approximate.

Q. Could you be definite as to the month in which the meeting took place or approximately?

A. I think it was in October, August—wait a minute! I can only approximate it. It was September or October.

Q. All right. You say you only attended one such meeting? A. That's all.

Q. Was there any other representative besides yourself of the Beer Drivers' Union—

A. (Interposing) There was—

Q. (Continuing) —who could have attended any other meeting of that same organizing group?

A. There was none.

Q. And when you say Beer Drivers' Union, am I correct [2985] in saying that that is sometimes also known as the Brewery Drivers' or Brewery Wagon Drivers' Union? A. That's correct.

Q. You say you arrived at that meeting at about 10:15 in the morning? A. About 10:45.

Q. 10:45. I beg your pardon. How long did you remain at that meeting?

A. Until about 12:00 o'clock.

Q. When you arrived do you recall whether Mr. Harry Bridges was there?

(Testimony of John S. Horn.)

A. He came in shortly after I arrived.

Q. And do you recall what took place after that?

A. Well, I can't be very specific. It was simply like all labor union meetings. There was a number of speakers that talked on various subjects.

Q. Do you remember who the speakers were?

A. Mr. Bridges spoke and I spoke; some representative, I believe of the Upholsterers' Union spoke and also I believe of the Jewelry Workers.

Q. Of the which workers?

A. Jewelry Workers. And I think one representative of the Warehousemen's Union. [2986]

Q. Were you present from the time Mr. Bridges began his talk until the time he finished it?

A. I was.

Q. How long would you say his talk took?

A. I would say approximately 20 minutes.

Q. What, in general, was the character of the talk or speech given by Mr. Bridges at that time?

Mr. Del Guercio: I object to the question, "in general," as not meaning anything. What did he talk about?

Presiding Inspector: I think that is the question.

Mr. Gladstein: Yes.

Mr. Del Guercio: He said "in general."

Presiding Inspector: You mean in substance?

Mr. Gladstein: Yes. What, in substance, was it?

(Testimony of John S. Horn.)

Presiding Inspector: I think that is what the question is. I don't think you are in disagreement.

A. It was an organizational talk and explaining some of the issues and differences in the dispute between the American Federation of Labor and the Organization for Industrial Unions—the Committee for Industrial Unions.

By Mr. Gladstein:

Q. Was there any part of Mr. Bridges' speech devoted to a discussion of the problems of organizing unorganized workers? A. Yes.

Q. Was there anything in that speech that you recall which [2987] would be different from the usual type of organizer's talk?

Mr. Del Guercio: I object to that, if your Honor please, as there is no testimony as to what usual talk is.

Mr. Gladstein: I will withdraw the question.

By Mr. Gladstein:

Q. You have been in the labor movement a good many years. Do you feel that you can recognize a trade union organizer's talk or report?

Mr. Del Guercio: I object to that question.

Presiding Inspector: I think that is too general.

Mr. Gladstein: Too what?

Presiding Inspector: Too general.

Mr. Gladstein: Maybe it is general, but I think a man—

Presiding Inspector: You haven't shown that

(Testimony of John S. Horn.)

there is ~~any~~ type of an organizer's report, and I don't think we could take testimony on that. I don't think the Court can take judicial notice as to what is an organizer's talk.

By Mr. Gladstein:

Q. Let me ask it this way: You, yourself have been an organizer, have you not?

A. Yes, sir.

Q. And have made many speeches for the purpose of organizing workers?

Mr. Del Guercio: I object to that. It makes no difference.

Presiding Inspector: Except as to his standing in the [2988] community. I will take it.

Mr. Del Guercio: Is it offered for that purpose?

Presiding Inspector: I don't know, but I will take it on that ground. A. Yes.

By Mr. Gladstein:

Q. Have you heard in your lifetime in the labor movement very many organizers' talks and reports?

Mr. Del Guercio: I can't hear counsel. In the first place, his hand is up to his mouth.

Presiding Inspector: I think you covered your mouth with your hand. It is difficult to hear.

Mr. Gladstein: Read the question, Mr. Reporter.

(The question referred to was read by the reporter as above recorded.)

Mr. Del Guercio: I object to that.

(Testimony of John S. Horn.)

Presiding Inspector: I will take it. It isn't very important.

A. I have.

Mr. Del Guercio: I move that the answer be stricken.

Presiding Inspector: I will let it stand. It isn't very important.

By Mr. Gladstein:

Q. Are you in a position to say, Mr. Horn, whether, based on your experience, organizers' talks and reports in [2989] the trade union movement follow in general a certain pattern?

Mr. Del Guercio: I will object to the question as improper.

Presiding Inspector: That is preliminary. I will take it as preliminary. He is going to ask what that pattern is.

Mr. Gladstein: Yes.

A. In the main; yes, sir.

Presiding Inspector: I really don't think this is very material.

Mr. Gladstein: I am getting to something that is rather material.

Presiding Inspector: I cannot see it; maybe you are. The future is dark and undisclosed to me.

By Mr. Gladstein:

Q. What, in general, would you say was that pattern?

Mr. Del Guercio: I will object to that—"in general". What good will it do, the general pattern?

(Testimony of John S. Horn.)

By Mr. Gladstein:

Q. In substance, what is the pattern?

Presiding Inspector: What is the point of this? Is it to show that he just made an ordinary trade union talk? What difference does it make?

Mr. Gladstein: Your Honor may have forgotten that Mr. Chase, a witness for the Government, testified that at a meeting where there was a representative of the Brewery Workers Union— [2990]

Presiding Inspector: I haven't forgotten.

Mr. Gladstein: (Continuing) —whose name he wasn't sure of, but it may have been Mr. Horn. Mr. Bridges laid down the party line.

Now, I want to show by this witness just exactly what Mr. Bridges said; and this witness, by virtue of his experience is in a position to say whether there was anything in that talk of Mr. Bridges that indicated that Mr. Bridges was following or proposing a political line of any party, or whether it was a straight trade union organizing report.

A man in the labor movement can do that.

Presiding Inspector: Ask him what he said.

Mr. Del Guercio: If your Honor please, I believe that counsel is misstating what Mr. Chase testified to. Chase said that he was told to attend a meeting, and was told that Mr. Bridges would lay down the Party line, Communist Party line.

Presiding Inspector: So I understood.

(Testimony of John S. Horn.)

Mr. Del Guercio: And not what counsel stated he said.

Mr. Gladstein: You will recall on cross examination, when I asked Mr. Chase what he based his statement on as to his testimony that Mr. Bridges was laying down the Communist Party line, he said the remarks that Bridges made at the meeting and the telephone conversation.

Your Honor at that time pointed out that the two were sort [2991] of integrated in the mind of Mr. Chase.

I want to point out that the remarks Mr. Bridges made at that meeting, that there was nothing in those remarks that could indicate in any way that Mr. Bridges was proposing or following a policy of the Communist Party. That is directly in point on the testimony of Mr. Chase.

Presiding Inspector: Let us hear first what Mr. Bridges said.

Mr. Gladstein: I am willing.

By Mr. Gladstein:

Q. Would you state in substance, to the best of your recollection, Mr. Horn, what Mr. Bridges talked about on that occasion?

A. That is rather hard for me to do because the talk was only in generalities. I was disappointed in the address that he made. I thought, with due respect to the gentleman, that it was very innocuous.

(Testimony of John S. Horn.)

as an organizational talk, and it didn't impress me enough to have remained vividly in my memory.

Q. Was there anything unusual about his talk in the sense of his being super-militant?

A. No; I thought it was mild.

Q. Was there anything about his talk on that occasion which referred to—withdraw that.

Was there anything about his talk which would indicate [2992] to you that he was pursuing or proposing some policy of the Communist Party?

Mr. Del Guercio: If your Honor please, I object to that. The witness hasn't testified yet he knows what the Communist Party policy was.

Presiding Inspector: This is direct examination. I think you should qualify it in that respect.

By Mr. Gladstein:

Q. I will put it this way: In your experience in the labor movement have you ever heard talks at union meetings and elsewhere in which you felt that you could recognize that the speaker was proposing or following a policy of the Communist Party? A. I have.

Q. What are the things about those talks which would impress you with the opinion that the speaker was following or proposing such a policy?

A. Well, the usual method is an attack upon all the officers of the union, and every piece of conservative legislation that the trade union workers

(Testimony of John S. Horn.)

stand for, the old regime would be reactionary, and the general tearing-down process.

Q. Was there anything about Mr. Bridges' talk on the occasion that we are discussing that would indicate to you that he was pursuing or proposing a Communist Party policy or line? [2993]

Mr. Del Guercio: I will object to that, if your Honor please, as calling for the conclusion of the witness.

Presiding Inspector: I think you may ask him if, in this talk, as he recalls it, did he use any of the arguments that he has now specified as Communistic.

Mr. Gladstein: All right.

Presiding Inspector: I am trying to make it clear along the line that you are trying to bring out.

Mr. Gladstein: I think I have a right, your Honor, to have the question answered as to whether the witness recalls anything said that would to him indicate what the question is asking for. I think I have a right to that.

Presiding Inspector: He stated — perhaps you haven't exhausted his information as to what recognized Communist speakers usually state as a part of their Communistic propaganda. That is what you have been asking, but he has only given some statement that they are destructive.

Mr. Gladstein: What I am primarily interested

(Testimony of John S. Horn.)

in, your Honor, is this: The witness has already said that in the trade union movement organizers, or people who are interested in organizing workers, and who are making talks about it, urging people to adopt a policy of organizing, and so on, generally follow a pattern, which is a trade union pattern; that is, it shows trade union purposes and trade union methods and trade union objectives. [2994]

Now—

Mr. Del Guercio: (Interposing) That is not what the witness has testified to, your Honor.

Presiding Inspector: That is some time ago he is referring to now. Now, the immediate—

Mr. Gladstein: (Interposing) I am simply interested in having the witness testify that—and he has already said the talk of Mr. Bridges on that occasion was something that he regarded innocuous—it was simply in accordance with the usual trade union pattern. I am not interested in anything further on that. Therefore, I think I have a right to the last question.

Presiding Inspector: Read the last question.

(The question referred to was read by the reporter as follows:)

“Q. Was there anything about Mr. Bridges’ talk on the occasion that we are discussing that would indicate to you that he was pursuing or proposing a Communist Party policy or line?”)

Presiding Inspector: Well, if you will show that

(Testimony of John S. Horn.)

what he means by "Communist Party line" is what he has already stated, I will allow the question.

By Mr. Gladstein:

Q. Is it correct, Mr. Horn, that what you meant by Communist Party line was what you have stated in this general way? [2995]

A. Yes; that is right.

Presiding Inspector: With that qualification I will allow the question.

Mr. Gladstein: Will you read the question again, please, Mr. Reporter?

(The question referred to was re-read by the reporter as above recorded.)

Mr. Myron: We object to that.

Presiding Inspector: I will allow it in view of the last question.

Mr. Myron: That is, the Communist Party line as he described it?

Presiding Inspector: Yes, sir.

Mr. Myron: I think that should be added to the question.

Presiding Inspector: Go ahead. I will take it.

Mr. Gladstein: I don't want the record to show that Mr. Myron is putting things in my questions. He is going to get a chance to ask his questions, I am sure.

Presiding Inspector: Go ahead.

A. There was nothing.

(Testimony of John S. Horn.)

By Mr. Gladstein:

Q. In your years in the labor movement have you had a chance to become acquainted with the official position of trade unions as regards labor espionage?

Mr. Del Guercio: I will object to that, if your Honor [2996] please, as not only being improper, but unnecessary, and not at issue in this case. It seems to me we are getting far from the issue here. We are only trying to determine here whether Mr. Bridges is a member of the Communist Party and whether the Communist Party as such is an organization that comes within the ban of the statutes.

Presiding Inspector: Do you think there is a different ethic in trade unions than from the ordinary mass of the people? Is that what you are trying to show?

Mr. Gladstein: I don't know how the American public in general feels toward labor spies. I frankly do not know. I have had a little experience with the way that the labor movement feels about labor spies.

I am offering this line of examination now for the purpose of showing that witnesses like Mr. Ezra Chase who, as the record shows, was reporting to Captain Hynes in advance that strikes were being called by his union, that the police should be at the picket lines; and, mind you, though Mr. Chase called the squad of Captain Hynes the "Red

(Testimony of John S. Horn.)

squad" and attempted to say they were interested only in Communist activities in the labor movement. Mr. Catherman, on the stand yesterday, frankly stated that Captain Hynes' work was labor and strike detail, without any qualifications. All right.

Now, what I am interested in is to establish that people like, people who will come here and testify who, we contend, are [2997] shown to be labor spies, are the sort of persons about whom the labor movement has some very strong thing to say, based on experience.

Presiding Inspector: Suppose they have, assume that to be true, how does that affect this trial?

Mr. Gladstein: It affects the credibility of the witness, Chase.

Presiding Inspector: I am not so sure about that. That may all be prejudice. That is a question for the trier of the fact.

Mr. Gladstein: I am willing to pursue this line of examination with the witness to show that the official attitude of the American Labor movement toward labor spies is not one of prejudice, but is based on actual experience with the methods used by labor spies in the employ of employers to disrupt and destroy the trade union movement, and the methods that they use are familiar to any man who has been in the labor movement for a period of years, and the hostility which a labor man feels toward labor spies isn't a question of prejudice.

(Testimony of John S. Horn.)

It is simply a question of how a human being reacts to a snake.

Presiding Inspector: You don't need any proof of anything that you have now asked. What difference does it make if they feel that a labor spy is a snake? What difference does it make whether any group of persons feel that a person is untrustworthy or a snake, as you call him? [2998]

Mr. Gladstein: For this reason: If Mr. Horn testifies, as I believe he will if permitted to do so, that labor spies are an anathema to the labor movement, and that the reasons are, as the LaFollette Committee has officially shewn as a result of their investigation, because of the way they are put into unions for the purpose of disrupting them, serving the interests of employers, then I think you will see that that attitude of the labor movement is not one of prejudice, but one which is based on very just grounds.

Presiding Inspector: Don't you think that the trier of the fact can see all this just as well as the labor unions, or just as well as yourself standing here as a lawyer and arguing here? Isn't this all self-evident? Aren't you just painting the lily? Aren't you showing that someone believes that disloyalty to an organization is reprehensible? Aren't those general matters dealing with common ethics?

Mr. Gladstein: If I interpret your Honor's remarks correctly it may not be necessary to do that.

(Testimony of John S. Horn.)

Presiding Inspector: I don't think that it is a question for expert testimony.

Mr. Gladstein: You don't think it is necessary?

Presiding Inspector: I don't think so. Of course, on the other hand, a person might be indulging in extremely reprehensible practices. He might do very disloyal things, and yet when he comes on the witness stand that is a question only for the trier of the fact as to how those reprehensible [2999] characteristics affect his credibility. We may believe the most—still give credence to the most dishonorable person. That is a question for the trier of the fact.

Mr. Gladstein: There is one thing you overlooked, Judge, and that is this: You say now a man can be reprehensible because he is being a labor spy, and still take the stand, and it is a question of fact as to whether he ought to be believed on an issue or not.

Presiding Inspector: Yes.

Mr. Gladstein: But I am trying to point out to you that this witness, as thousands of witnesses in the labor movement, will testify that the point about a labor spy is that he makes his living by lying, on the basis of a lie; that is his whole life. Therefore, if that is true, if the labor movement knows that it is true from experience, then there can't be any question as to whether or not a labor spy should be believed on the witness stand.

(Testimony of John S. Horn.)

That is our position. It is not a question of reprehensible conduct.

Presiding Inspector: I do not think this is a matter of law, but a proposition of fact. I do not think we can lay that down as a proposition of law.

You seem to think that there is great significance in the attitude of labor unions to what you call labor spies. I do not think that there is the same importance, for various [3000] reasons which I have tried to state; that you attribute to it. But if you think that is so important—I want to be extremely fair, over-fair—I will let the witness answer the question.

Mr. Del Guercio: May I be heard?

Presiding Inspector: Oh, yes; certainly. I will hear you before I rule. I will take back the ruling.

Mr. Del Guercio: Counsel has taken advantage of argument only for publicity purposes.

In the first place, there is no evidence in this case that any of the Government witnesses are labor spies. That isn't an issue here. The only issue here is whether or not Bridges is a member of the Communist Party. In that connection it isn't a question of whether labor spies are to be believed. It is a question of whether Communists are to be believed.

Now, it would have been proper for counsel to

(Testimony of John S. Horn.)

have asked this question of the witness: "Is a member of the Communist Party to be believed?" or, "Is the conduct of a Communist so reprehensible to a labor union man?"

Presiding Inspector: I am not going to accept testimony as to what any particular class or group believe.

Mr. Del Guercio: That would open the door—

Presiding Inspector: That would be of no assistance to the trier of the fact, or the reviewer of the facts. [3001]

As I understand it, this question is directed to the attitude of trade unionists toward those members who give information of trade union doings and purposes to their employers.

Mr. Gladstein: That is right.

Mr. Del Guercio: Trade unions aren't involved in this hearing.

Presiding Inspector: Of course, there is no such evidence in this case.

Mr. Gladstein: Mr. Del Guercio says the only issue is whether Mr. Bridges is a member of the Communist Party. Who is produced by the Government on that issue? Well, I am thinking now in terms of Ezra F. Chase. He gave testimony which the Government claims connects Mr. Bridges with the Communist Party.

Now, Ezra F. Chase, we say on the record already, is shown as a labor spy and, therefore, it becomes important.

(Testimony of John S. Horn.)

Presiding Inspector: Let us see about that. Is there any proof that he gave any information to any employer?

Mr. Gladstein: Here is what he did: He admitted that he would call up the police department and tell them, in advance of strikes, that strikes were being called; that he would discuss these matters and make the reports of the activities in the union, with and to Captain Hynes and others. He did deny that he gave direct reports to employers. But that doesn't [3002] mean that he wasn't working in the service of the employers. It would be very unusual for a labor spy to make his reports directly to an employer.

The history of Los Angeles has shown, by the LaFollette Committee investigations, indicates that the Employers Council there found it better to operate through Captain Hynes.

Now, the point is this: Ezra F. Chase made his living in the union by getting up and saying, "I am in favor of a strike," and urging his fellow workers to go on strike; and then, at the same time, turning around and working with Captain Hynes to destroy that strike. That is the sort of character he is. He made his living by that sort of means.

Mr. Myron: This is argument.

Presiding Inspector: Yes; this is argument.

Mr. Gladstein: A man who will do that, who lives by a lie, can take this stand and say anything.

(Testimony of John S. Horn.)

Presiding Inspector: You are assuming a lot of the things that are not in this record. We haven't the record of the LaFollette Committee before us. We don't know what happened in Los Angeles.

Mr. Gladstein: Before this hearing is over we will have testimony, your Honor, as to what Mr. Chase—

Presiding Inspector: We don't know anything about Mr.—Captain Hynes in this record, except that he is a police officer. We heard a little something about him yesterday. But [3003] that is all we do know. He was in charge of labor affairs from the police standpoint.

Now, if you are going to show that Mr. Chase—and I think he is the only person that has been brought to my attention as being within gunshot of your definition of a labor spy—isn't he the only one? [3004]

Mr. Gladstein: Not necessarily the only one.

Presiding Inspector: As yet.

Mr. Gladstein: All right. Let us say, as revealed during the course of the Government's case.

Mr. Myron: It was mentioned by you. It was not revealed.

Presiding Inspector: As yet.

Mr. Myron: There is no such evidence in the record and he knows it.

Presiding Inspector: Only under your statement, which I suppose you expect to substantiate, can he be so called.

(Testimony of John S. Horn.)

Mr. Gladstein: Well, if I am not mistaken, your Honor, Mr. Chase testified to this on cross examination. He testified that he filled out an application to the Glen E. Bodell Detectives—

Mr. Myron: (Interposing) Are you quoting from Mr. Chase's testimony for the record?

Mr. Gladstein: Address your remarks to the Court.

Presiding Inspector: This is argument.

Mr. Del Guercio: Well, if your Honor please, — he is going all over the same thing. That is about three times now.

Presiding Inspector: Well, I would like to hear it. I would like to hear it. I don't understand it.

Go ahead, Mr. Gladstein.

Mr. Gladstein: My recollection is that Mr. Chase [3005] said that he was an officer, a paid officer of the Upholsterers' Union until sometime in December, 1937. He was a little vague about what part of December, 1937 the pay ended, but he remained a member of the Union for a week or two after his official job stopped. He admitted finally that he had applied for a job to the Glen E. Bodell Detective Agency, and the date of that appears in the record as sometime in December. I do not recall the exact date.

He testified on cross examination that he had that application for several months before he filled it out.

Now, a person who will apply for a job with a detective agency for the purpose of becoming an industrial investigator and who says in his applica-

(Testimony of John S. Horn.)

tion that he knows trade unions and how to deal with them and gives his qualifications for that purpose, and who has the state of mind months before the time that he actually leaves the union of being willing to become a labor spy—an "industrial investigator" is only a fancy name for a "labor spy."

Presiding Inspector: I couldn't take judicial notice of that.

Mr. Gladstein: You don't have to, your Honor, but I think the record will show, and it would be very strange to me if the Bodell Agency asked people to indicate whether they wanted to be "labor spies" or "guards." They would call it as they do: [3006] "Industrial Investigators." That is simply true.

All right. Now, in view of that testimony and the man's state of mind—and this was in direct contradiction to what he said in previous response to questions—I asked him about his state of mind. He would never be a labor spy, he said! Oh, no! He was only interested in Communist activities! But as to labor espionage, he would never have done such a thing! He would never have applied for such a job! The record is full of such things.

Presiding Inspector: You don't need anything further because the record you have quoted would indicate that the witness thought that labor espionage was reprehensible.

Mr. Gladstein: The point is this: I want to show just how reprehensible it was for him to be indulg-

(Testimony of John S. Horn.)

ing in labor espionage because he was a witness who took the stand, called by the Government to testify against Harry Bridges.

Presiding Inspector: Very well. I will adhere to the previous ruling and let you ask the questions. I still think it is of little importance. Go ahead. I may at some time think differently before we get through the case.

Mr. Gladstein: Will you read the question, please?

(The question referred to was read by the reporter, as follows:

"Q. In your years in the labor movement, have you had a chance to become acquainted with the official position of trade unions as regards labor espionage?) [3007]

Mr. Myron: I will object to the question.

Presiding Inspector: The official position? Is that what you mean?

Mr. Gladstein: Well, I could ask him what his attitude of the trade union movement generally is and that would reflect the feelings and opinions based on experience of the leaders in the labor movement. And he is one. He has been a leader in the labor movement for many years. He is in a position to know about these things.

Now, I could re-frame the question and simply say, instead of "official position" you notice that witnesses who have appeared heretofore and who were asked questions witnesses who had been in the

(Testimony of John S. Horn.)

trade union movement, kept talking about "while officially this" and "officially that." It is a word that is constantly used in the trade union movement, that is why I asked him.

Presiding Inspector: I simply asked if that was really what you wanted to ask.

Mr. Gladstein: Well, I will ask the witness first whether he understands that question and feels that he can answer it.

By Mr. Gladstein:

Q. Do you, Mr. Horn?

Mr. Del Guercio: I object to the question, if your Honor please. [3008]

Presiding Inspector: We will find out whether—I have already ruled that I will let him answer.

A: I think I can.

By Mr. Gladstein

Q. All right. Now, will you answer it?

A. I do.

Q. All right. Now, will you state what that official position is?

Mr. Del Guercio: I object to that, if your Honor please, upon the ground it is immaterial and irrelevant and having nothing to do with the issues in the case.

Presiding Inspector: It has nothing to do with the direct case.

Mr. Del Guercio: Or even remote issues.

Presiding Inspector: I will take it. I will take the proof, though. Go ahead. You may answer.

(Testimony of John S. Horn.)

A. The position of, I think, not only officially but every trade unionist of any standing, is that a labor spy is about the lowest species of humanity existing and would not believe them in any manner, shape or form or associate with them if they had any opportunity to avoid the contact.

Mr. Gladstein: You may cross examine.

Cross Examination

By Mr. Del Guercio:

Q. Now, Mr. Horn, you say you attended this meeting [3909] at which Harry Bridges spoke in the fall of 1937 at Los Angeles, is that correct?

A. Right.

Q. How many other persons were there present at that meeting?

A. Oh, I never made any check. I would say approximately 40 to 50; not over that.

Q. Not over 50?

A. I shouldn't think so.

Q. And how many of those that were present did you know as being members of the Communist Party?

A. None directly.

Q. Not that you recognized?

A. None directly.

Presiding Inspector: I think you don't quite get his answer, as I understand it.

The Witness: My answer is that I do not know of my own personal knowledge that they were members of the Communist Party.

(Testimony of John S. Horn.)

By Mr. Del Guercio:

Q. Well, do you have personal knowledge of anyone being a member of the Communist Party?

A. I have had in the past, not recently.

Q. Well now, you testified that you have heard or that you know what Communist Party speakers—what their policy is. [3010]

A. In the trade union movement.

Q. Yes. Now, what Communist Party speakers have you heard?

A. Well, I said "not recently."

Q. Well, at any time?

A. Oh, we had numbers of Communist people in the Central Labor Council that were making attacks.

Q. What was his name or their names?

A. Well, it is too long ago for me to remember.

Q. How long ago was that?

A. That was in 1920 to—from 1922 to 1925.

Q. From 1922 to 1925. And is that the only time that you heard a Communist Party member speak?

A. The only one that I knew was a Communist.

Q. Who was that?

A. There were several of them that admitted on the floor of the Central Labor Council that they were members of the Communist Party.

Q. Was there a Central Labor Council from 1922 to 1924? A. There was.

Q. Where? A. Los Angeles.

Q. Were you a member of it?

(Testimony of John S. Horn.)

A. I was Secretary-Treasurer.

Q. And what were the names of those members of the [3011] Communist Party?

A. I couldn't recall.

Q. What was their Party line? What was the line that they advanced.

A. Destruction of the movement; attack upon the officials of the American labor movement.

Q. And where did they say that?

A. On the open floor of the Central Labor Council.

Q. Oh, they appeared before the Central Labor Council?

A. As delegates from the various unions.

Q. And you don't know their names?

A. Not at this time.

Q. You don't know the occasions that they spoke?

A. Well, we met every Friday night. That is a regular meeting of the Labor Council, and during that period there was hardly a time that there wasn't someone on the floor making remarks of that kind.

Q. Can you give me the names of someone else that was present that heard these same speakers that you say you heard?

A. Well, I could get the record.

Q. Well, would you do that?

A. That is approximately eighteen years ago.

Q. Well, where are those records?

A. Los Angeles Central Labor Council. [3012]

Q. And they are available to you?

(Testimony of John S. Horn.)

A. No; they are not available to me, but they are available to anybody with any authority.

Q. Well, would the records of that Labor Council for that year show who were these speakers, who were the Communist Party speakers before the Central Labor Council of which you speak?

A. It would show the two or three that were expelled from the Council as soon as they admitted that they were members of the Communist Party.

Q. I am not speaking about that. I am speaking, would it show that at the time you say they spoke that they were speaking as members of the Communist Party?

A. No. They never admitted it except the time when we had these two or three who were questioned.

Q. Well, who has ever admitted to you or in your presence that he was a member of the Communist Party?

A. There was only these three or four that I can't recall their names.

Q. Do you know what they look like?

A. One was a member of the—let me see! Wait a minute! Ladies' Garment Workers Union.

Q. Just a member, not a delegate?

A. A delegate to the Council.

Q. What? [3013]

A. They couldn't speak unless they were delegates of the Council.

Q. You said he was a member.

A. Well, a delegate is a member of the Council.

(Testimony of John S. Horn.)

Q. Well, what did he look like?

A. That is too far for me.

Q. You don't even know what he looked like? You don't know his name?

A. No.

Q. You don't know what he looked like? You don't know what he spoke about?

A. Oh, yes. He spoke, as I say, I couldn't recite the details.

Q. Could you remember one word he said or may have said?

A. Yes.

Q. What

A. That the officers or the officials of the American Federation of Labor were moss-backs, reactionaries and were not representing the workers properly and should be thrown out or voted out of office.

Q. And you recall that some particular individual member of the Central Labor Council said that in 1922?

A. Several of them said that. That was the general tone. [3014]

Q. You have retained those words since 1922 in your mind?

A. Yes; because—

Q. (Interposing) And yet you can't remember the names of these persons?

A. That's correct.

Q. Or persons? But you would have us believe

(Testimony of John S. Horn.)

that you have retained in your mind during all these years the words that you have just quoted?

A. That's correct.

Q. As having been spoken by the—

A. (Interposing) That's correct.

Q. Now, Mr. Horn, didn't Harry Bridges make a similar speech in 1937 at which you attended? Didn't he make the same kind of attack?

A. No.

Q. Upon American Federation of Labor men?

A. Not to that extent.

Q. Not to that extent?

A. Not to my recollection.

Q. Now, you were interviewed by FBI men, were you not?

A. I was.

Q. And didn't you make this statement to them? "Harry Bridges spoke at this meeting concerning the A. F. of L., stating that the men in charge of the A. F. of L. were old, were living on the fat of the land, were mixing with [3015] employers and lost contact with the men and just wanted salaries"? Didn't you say that?

A. I don't think I said it in that language.

Q. In what language did you say it?

A. That in the course of his remarks explaining the organizational differences between—between the organizations for industrial unionism and the A. F. of L., that the industrial union would produce more for the workers, and along that line.

Q. Well, did he say that the officers of the A. F.

(Testimony of John S. Horn.)

of L. were living on the fat of the land, or words to that effect?

A. I don't recall that he did.

Q. Huh. You don't recall now?

A. I don't recall.

Q. Do you recall saying that to the FBI men?

A. I don't think I said it in exact language.

Q. Would you say that you didn't say it?

A. I would say I didn't use those exact words.

Q. Well, what words did you use then?

A. I couldn't repeat it.

Q. You couldn't repeat it?

A. That was a long——

Q. (Interposing) Your recollection fails you?

A. That was a long conversation, as I recall.

Q. And yet you remember these words twenty-two years [3016] ago that some person that you don't know what he looks like or don't know his name——

Mr. Gladstein: Interposing) I think that is argumentative, your Honor.

Presiding Inspector: I will allow it. This is a cross examination. Go ahead.

By Mr. Del Guercio:

Q. Did you say that Bridges accused American Federation of Labor men with mixing with employers?

A. Not in that exact words.

Q. Well, what words did you use then in saying that?

(Testimony of John S. Horn.)

A. I used the words something to this effect: That the representatives of the A. F. of L. were dealing with the employers not doing the job as well as could be done by the industrial union form of organization.

Q. Well now, are you quoting your exact words?

A. No, as close as I can recall.

Q. Now, is it possible that you did tell the FBI men that Harry Bridges said or accused the A. F. of L. officials of mixing with employers?

A. Yes. I could have said that.

Q. Well now, isn't that your definition of a "labor spy" and doesn't that come within your definition of a "labor spy"?

The Witness: Your Honor, I am not hard of hearing and I [3017] resent the gentleman speaking to me in that tone of voice.

Presiding Inspector: Never mind! You answer the question.

A. No, that is not my definition.

By Mr. Del Guercio:

Q. Would you say that the American Federation of Labor officers were labor spies? *

A. No, sir.

Q. If they mixed with employers?

A. No, sir.

Q. You wouldn't? A. No, sir.

Q. Now, didn't you also tell the FBI men that in your opinion Bridges' speech in 1937 was tinged with Communism?

A. I think it had that phraseology.

(Testimony of John S. Horn.)

Q. Oh, you did say that? Was that the truth?

A. In a mild way, yes.

Q. Was it the truth? Did you tell the truth to the FBI men when they questioned you about that?

A. I think I did, to the best of my knowledge.

Q. Did Mr. Bridges say anything about "Red-baiting" at his speech in 1937?

A. I do not recall.

Q. You don't recall. Well, do you recall talking to the FBI men? [3018]

A. Yes.

Q. And telling them that Harry Bridges did use the words "Red-baiting"?

A. I do not think I did.

Q. Would you say that you didn't say that to the FBI men?

A. Yes. I don't think I said that.

Q. Huh?

A. I don't think I said that. Not in the direct line that you put it.

Q. In what line did you say it, Mr. Horn?

A. Well, in a general way that the term is generally used in the labor movement or in an organization way of "Red-baiting."

Q. What is that way?

A. Just what it says: "Red-baiting."

Q. Red-baiting?

A. Accuse a person of being a Red, a Communist.

Q. Did Mr. Bridges say anything about Red-baiting in that speech?

A. I don't recall that he did.

Q. Huh?

(Testimony of John S. Horn.)

A. I don't recall that he did.

Q. You do not recall what he said in 1937?

A. Not very clearly, no.

Q. Do you know Walter Westphal? [3019]

A. Who?

Q. Walter Westphal.

A. I do not recall him.

Q. Was he present at that meeting.

A. I don't know.

Q. Huh? Do you know of anybody who was present at that meeting?

A. Not by name, no.

Q. Do you know whether they were members of the Communist Party? A. I do not.

Q. Huh? A. I do not.

Q. They might have been?

A. Possibly.

Q. It is possible. You didn't know any of them personally, did you?

A. I know a lot of them to say "Hello" to, but I wouldn't know them by names.

Q. And you don't know the name of a single person who attended that meeting?

A. I just mentioned Mr. Bridges.

Q. He was a speaker. Do you know any person who attended that meeting?

A. I couldn't give you any names now. [3020]

Q. Not a single name? A. No.

Q. Do you know if Mr. Chase was present?

A. I do not know that I know Mr. Chase.

Q. You don't know Mr. Chase at all?

(Testimony of John S. Horn.)

A. I do not know whether I do or not. If I saw him I would know whether I knew him or not.

Q. Now, this meeting, you say, was in the fall of 1937. Do you recall Mr. Bridges using these words, in substance, in his speech. I quote from Mr. Bridges: "There was a time that I felt that if anyone was opposed to the Communist Party that it was his privilege to so speak, but experience has taught me that those who make a practice of Red-baiting are usually agents of the bosses and are the enemies of true trade unionists and should be treated with distrust." Do you remember using those words?

Mr. Gladstein: Just a moment!

Mr. Del Guercio: I am not through with the question yet.

Mr. Gladstein: Before you answer that question, I want to say that counsel is asking the witness a question read from a document, and I think in accordance with your Honor's rule the witness is entitled to know what that document is and from whom it purports to be read. [3021]

Presiding Inspector: I will allow that question.

Mr. Gladstein: What is that?

Presiding Inspector: I will allow that question.

Mr. Gladstein: I think this witness should—

Presiding Inspector: (Interposing) It is a memorandum of the investigation, I suppose. It is no document except in the sense as it may have been prepared as a result of the usual investigation.

Mr. Gladstein: I don't know but what counsel is using a labor spy's report, for all I know.

(Testimony of John S. Horn.)

Presiding Inspector: Assume that he is. I will allow the question.

By Mr. Del Guercio:

Q. What is your answer, Mr. Horn?

The Witness: Read the question, please?

Presiding Inspector: Did he say that or that in substance?

The Witness: I do not recall that he did.

By Mr. Del Guercio:

Q. He might have said it?

A. It's possible.

Q. Its possible, but you wouldn't remember? You have no recollection now?

A. Not of him using that.

Q. What do you have any recollection of Bridges saying [3022] at that meeting?

A. I testified a moment ago or a few minutes ago that the talk was, I thought, innocuous and was disappointing—and it didn't impress me very good. It didn't impress itself in my mind very vividly.

Q. If he did use these words that I have just said, would you call that "innocuous"?

A. I don't recall that he did.

Q. You wouldn't state that he said that?

A. No, I wouldn't.

Presiding Inspector: He wants to get your judgment as to what you mean by "innocuous". Now, he says, if he did use those words would you call those words "innocuous"?

The Witness: I would not.

(Testimony of John S. Horn.)

Mr. Del Guercio: And your testimony is that you don't know whether he used those words or not.

Now, if the Court please, counsel accused me of having a labor spy magazine. I want to show him what I had in my hand. It is a transcript of the

Mr. Gladstein: (Interposing) Of the testimony of Ezra S. Chase, labor spy.

Mr. Del Guercio: And you have that.

Mr. Gladstein: From the testimony of Ezra S. Chase, labor spy.

Mr. Del Guercio: I think those remarks are out of order. [3023]

Presiding Inspector: Yes. I think they are out of order. Go ahead. They don't affect the trier of the facts in the slightest.

By Mr. Del Guercio:

Q. Since 1924, Mr. Horn, have you heard any Communist Party members speak?

A. I have never attended a Communist meeting that I know.

Q. I didn't ask you that. I asked you if since 1924 you heard a Communist Party member speak?

A. I heard Earl Browder over the air one time.

Q. How do you know that he is a member of the Communist Party?

A. The publicity—the newspapers state that he was a candidate of the Communist Party.

Q. Well, did he lay down any policy towards trade unions?

(Testimony of John S. Horn.)

A. After I listened to him about three minutes I turned the dial.

Q. Well, do you know what the Communist Party policy towards trade unionism is?

A. In a general way I think I do.

Q. Who else told you? Where did you get it?

A. Well, in reading labor magazines and journals.

Q. What labor magazines did you read? [3024]

A. Well, I read any number of them.

Q. Well, will you give me the names of some of them, please?

A. The American Federationist, the Los Angeles Citizen, the Daily Clarion, the Chicago Federationist and Brewery Workers' International Journal.

Q. Would you say that the Western Worker is a trade union paper?

A. No, I would not.

Q. Would you say that—you would not?

A. No.

Q. Why not?

A. Because I don't believe it is. Not as a trade union paper, as I understand the trade union movement.

Q. Would you say that the Daily Worker is a trade union paper?

A. No. I understand that it is a Communist Paper. I have never read it.

Q. Would you say that the Peoples World is a trade union paper?

A. No, I would not.

Q. Now, what in the papers that you have men-

(Testimony of John S. Horn.)

tioned as being as representing the trade unions did you read to show what the Communist Party policy towards trade unionism is?

A. Yes. That did run quite frequently in all the [3025] trade papers.

Q. What did you read then about it? Will you give me what you read about the Communist Party policy towards trade unionism?

A. That they were instructed to bore from within, depose the officers, cause general dissatisfaction and leading up to the time when they would have a general resolution.

Q. General "resolution" or "revolution"?

A. Revolution: And establish a dictatorship of the proletariat.

Q. You say you have been a labor man here for a long period of time. Would you say that a Communist would make a good labor man?

A. I would say he could not make a good trade union labor man.

Mr. Del Guercio: That is all, your Honor.

Mr. Gladstein: Just one question.

Redirect Examination

By Mr. Gladstein:

Q. Do you think Harry Bridges is a good trade unionist, Mr. Horn? A. I do.

Mr. Gladstein: That is all.

Mr. Del Guercio: I didn't have time to object.

Presiding Inspector: You didn't. [3026]

Mr. Gladstein: Well, I—

(Testimony of John S. Horn.)

Presiding Inspector: Strike out the answer just for the moment.

Mr. Gladstein: Yes. I haven't any objection to that.

Mr. Del Guercio: I object, that there is nothing at issue here in this case as to whether Bridges' activities in trade unions as such. What is at issue is Mr. Bridges as a Communist, his Communist activities in trade unionism.

Presiding Inspector: In view of the testimony about this speech that he made, I think I will allow the question.

Mr. Gladstein: Not only that, but in view of the question—

Presiding Inspector: (Interposing) That is enough.

Mr. Gladstein: All right.

Presiding Inspector: I am not excluding it.

Mr. Gladstein: Then the answer is in?

Presiding Inspector: I will take the answer. I will let the answer stand.

Mr. Gladstein: We have no further questions.

Mr. Del Guercio: No further questions.

Presiding Inspector: Next witness.

(Witness excused.)

Mr. Gladstein: We don't have a witness to put on at this time, your Honor.

Presiding Inspector: Can't you dispose of Mr. Bridges?

Mr. Gladstein: I asked Mrs. King about that this morning and she didn't have that ready, that

testimony. As a [3027] matter of fact, I would suggest that we have a conference in chambers on the general subject matter which developed this morning, due to the ruling that your Honor has made, and take up some problems. I suggest we have a recess now in chambers.

Presiding Inspector: Yes. Why not discuss them right here? Would you rather discuss them in chambers?

What do you say, Mr. Del Guercio?

Mr. Del Guercio: We have a matter, too, your Honor, to take up at the present time.

Presiding Inspector: Would you like to discuss them right here or in chambers?

Mr. Del Guercio: I don't know what that is. What I have in mind is something else.

Presiding Inspector: Shall we discuss the whole matter in chambers?

Mr. Goodwin: In open court.

Mr. Del Guercio: What we have in mind is another matter entirely. I haven't indicated yet what it was.

Presiding Inspector: I know you haven't. Do you want to discuss it here or in chambers?

Mr. Del Guercio: Right here, now. I understand that they have nothing to present at the present time. We want to make—— [3028]

Presiding Inspector: They would like to talk over the progress of the trial.

Mr. Gladstein: The question I would like to raise, your Honor, is this. We had, as I think I told your Honor yesterday, intended to put on the

stand this morning the witness Roscoe Craycraft, Mr. Roscoe Craycraft as a witness, and we frankly believed that his testimony direct and cross would take all day long. In view of your Honor's ruling yesterday we had to assume that possibly you would rule that Mr. Craycraft's testimony could not be received until after Mr. Cannalonga had been brought down here.

Presiding Inspector: Yes. I think that was a fair assumption.

Mr. Gladstein: Well, we were guessing, but sometimes we guess right.

Now, all right. Therefore, we are put in a position of trying to re-arrange our schedule of witnesses. For that reason we were hurried and there was this delay this morning from Mr. Horn. But we would like under the circumstances to have Mr. Cannalonga as the next witness because the entire program of our case depends upon that testimony going in first, and in view of your Honor's ruling this morning, that you will not permit character witnesses as of this time to testify to the good reputation of Mr. Bridges for truth and veracity, very frankly, your Honor, [3029] we had two more witnesses for this afternoon on that same subject matter.

Now, I realize that it is within the discretion of the Court to suggest the order of procedure, but also counsel should be permitted to develop the order of their case with some reasonable latitude. And I think that we should be accorded the same kind of courtesy that the Government receives.

Presiding Inspector: I shall try to give it to you.

Mr. Gladstein: I am not saying that you haven't, Judge, but I pointed out before that they were permitted to put on a lot of testimony for a week about a second issue, without even coming to the first issue at all. And while it is true that we didn't object, we thought that that is something that they want to develop in accordance with their theory of the case. And that is all right. But we should have the same rights.

Presiding Inspector: I want to give you every privilege to put your case in wholly and in the manner that you think is most effective for your line. Now, I don't want to allow this trial—this "hearing"; I suppose I should call it—to be too long delayed. I want to make progress here. You understand that.

Mr. Gladstein: Yes, I do. You see, our schedule was prepared for this entire week and next; I may say. But when [3030] your Honor ruled as you did yesterday in connection with the witness Mr. Shoemaker, the Court Reporter, as you did, indicating to us also that you would rule against the admissibility of Mr. Craycraft's testimony as of this time—that is, prior to Mr. Cannalonga—I assumed that your Honor didn't intend us to understand that Mr. Craycraft would not be permitted to testify after Cannalonga was on the stand.

Presiding Inspector: I haven't ruled one way or the other on that.

Mr. Del Guercio: We are going to argue that question now.

Presiding Inspector: We are going to take that question up now.

Mr. Del Guercio: Sir?

Presiding Inspector: We are going to take that question up now.

Mr. Del Guercio: That is what I had in mind, arguing that point now.

Presiding Inspector: Very well.

Mr. Del Guercio: May we proceed to argue now?

Presiding Inspector: No. Let us hear what the rest of their statement is. I will hear you in just a minute.

Mr. Grossman: There is something else that I would like to add. It is along the lines that we discussed or I discussed when I stated why we needed a certain amount of delay [3031] before we began our case, and I would like to bring that to your attention.

I pointed out at that time the difficulty of our having to keep available witnesses when we didn't know exactly when they would go on. Now, there is an additional matter that has developed that I want to bring to your attention because it creates special difficulties as far as time is concerned in bringing down the witnesses. We have found it necessary, though we hoped that it would not be, to send an attorney generally to interview witnesses before they are brought here. We hoped to be able to do it without having some member of our staff do so. But, as your Honor can see, we felt

that we couldn't do a satisfactory job without one. And so an attorney has had to leave San Francisco to contact witnesses in the various places. He has had to take a trip or trips to Los Angeles and before we can bring any witnesses (and I state to your Honor we will bring them shortly from Seattle and Portland) they must be interviewed in that way.

The result is that we were not able to bring down the witnesses before the interview. Now, that is one reason why we can't bring down immediately—let us say, tomorrow—witnesses that haven't yet been interviewed. And that's an additional reason why we need until Mr. Cannalunga is produced before we can begin our case, because we can't telephone Seattle or Portland to bring down a witness, because some of [3032] them have not yet been interviewed and will be interviewed today. That is a practical question. I don't think there is any solution for it because we can't be expected to bring down witnesses here on the basis that we are going to put them on as witnesses without having first interviewed them or having them interviewed by some one that we think responsible and reliable. That has meant this delay for these very practical reasons.

Mr. Del Guercio: If the Court please, we have information that they have been interviewing witnesses before that, not only them, but also another member of their staff, Mr. Margolis. So that everything that they are saying now is not exactly correct, and they have had plenty of opportunity and

plenty of time to get all of their witnesses to interview whoever they wanted to.

Presiding Inspector: I thought so. I thought last week's adjournment was—

Mr. Del Guercio: (Interposing) Was for that purpose.

Presiding Inspector: (Continuing) —was to fix that up. But you say this Cannalonga matter disrupted your previous plans?

Mr. Gladstein: Quite, your Honor. Because, as you see, we regard it as very, very critical to the case.

Mr. Del Guercio: There is a situation there where they made the situation again. They pursue the man, make the situation and then come here and argue about it and produce [3033] that as a reason for wanting another delay.

Mr. Gladstein: I am not sure quite whether—I think I ought to say this, Judge. Mr. Del Guercio has just said that I pursued Mr. Cannalonga and made or created a situation. All I did was to find out from Mr. Cannalonga what kind of a situation the FBI had created for Mr. Cannalonga, and that's what we want to produce here.

Presiding Inspector: I don't see any use in having recriminations and bantering. One side is about as good at that as the other, as far as I can see. I mean, in the capacity of counsel. So I don't think it does any good.

Mr. Gladstein: If the subpoena on Mr. Cannalonga has been sent by wire or phone—

Presiding Inspector: It was issued in Portland.

Mr. Gladstein: Then I assume that there is no reason why he can't be here tomorrow morning, and I think we have supplied in accordance with the statute the amount of money that is necessary to bring him down here.

Presiding Inspector: I think so.

Mr. Gladstein: Well, under the circumstances and in view of your rulings, as I say, we have two witnesses for this afternoon who would certainly take up the afternoon, but they are being called for the purpose of giving the kind of testimony that you wouldn't permit Mr. Horn to give this morning. So I don't think we should go through useless motions. [3034]

Presiding Inspector: As to the credibility?

Mr. Gladstein: Yes, as to the reputation of Mr. Bridges for truth and veracity.

Presiding Inspector: There has been no attack on Mr. Bridges' credibility and he hasn't been a witness, and while he is going to be a witness—I assume he is going to be a witness.

Mr. Gladstein: Yes.

Presiding Inspector: (Continuing) —I can't assume that there is going to be any direct attack on his reputation.

Mr. Gladstein: We frankly didn't anticipate that you would make that kind of a ruling.

Presiding Inspector: I think that is pretty elementary.

Mr. Gladstein: Well, what is elementary in a

common law proceeding is not elementary in an administrative hearing.

Presiding Inspector: You are right there. The Presiding Inspector has a greater freedom.

Mr. Gladstein: My attention has just been called to something I overlooked this morning in answering your question, your Honor, and that is this. You asked whether in the last hearing testimony of this character was permitted.

Presiding Inspector: No. I don't think that is what I asked. I asked whether there was direct impeaching testimony offered.

Mr. Gladstein: No, there wasn't that. [3035]

Presiding Inspector: Against Mr. Bridges.

Mr. Gladstein: No, there wasn't that. But, on the other hand, we were permitted by Dean Landis to prove—and I think there was one witness and then we asked that witness, in addition, certain other questions that we wished brought out which were not permitted, but I think on this question of truth and veracity we were permitted to have the answers. I can check that during the noon hour.

Presiding Inspector: Then there may have been such testimony of contradictory statements by Mr. Bridges?

Mr. Gladstein: Prior to that time.

Presiding Inspector: Prior to the time that that was introduced, which opened the door and there may have been no objection to it. I don't know.

Mr. Gladstein: I don't recall. I would have to check the record.

Presiding Inspector: Yes, you would have to check that, and I don't think it is very material. I recognize Dean Landis as an excellent lawyer and I have the highest respect for his views.

Now, we will hear your motion.

Mr. Goodwin: Your Honor, the thing that I am concerned about at the present time is that there is evidence in this record that has no business here; that it has been, of course, tentatively admitted by your Honor for the purpose of serving [3036] the convenience of the Court Reporter. But it is in the record. It does confuse the situation and it makes it doubly unfortunate and confused it, while it is in the record, Mr. Cannalonga, is brought in as a witness.

Now, there is no authority for the admission of that testimony and that is the question that we would like to argue on a motion to strike out, either now or after the conclusion of this morning's session and the beginning of the next. We think that it is an urgent question, one that should be disposed of now and not allowed to pend until we get briefs on it some months from now.

Mrs. King: May I be heard on this?

Presiding Inspector: Yes.

Mr. Gladstein: Could I suggest this, rather than argue the law? Mrs. King is prepared with an argument on the law, which your Honor can assume is directly contrary to the indications given by Judge Goodwin. But wouldn't it be a better way of settling this question to have your Honor

wait for a ruling on that until after Mr. Cannalonga has testified? Now, I am inclined—

Mr. Goodwin: (Interposing) How absurd!

Mr. Gladstein: What?

I am of the view that Mr. Cannalonga certainly cannot be damaged in any way by having this record as it is at the present time. If he is put on the stand he will be asked [3037] certain questions. He will not be confronted with the record in this case. He will simply be confronted with statements which we claim that he has made. Now, if he admits those, all right. If he denies those, then we have other testimony that we can produce. That is something entirely different. But I don't see how the present state of the record—

Mr. Goodwin: (Interposing) It makes a very vital difference, your Honor:

Mr. Gladstein: I would like to hear what the difference is.

Mr. Goodwin: It makes a very vital difference whether Mr. Cannalonga comes in here with his testimony as he has left it or whether he comes in here with some inadmissible statements of his with which he will be confronted not as something that counsel was going to ask him about but something in the record.

Now, I think that in justice to us and in justice to Mr. Cannalonga we have the right to the exclusion of evidence that has no business here and is not admissible under any ruling in any jurisdiction in the United States for 120 years.

Presiding Inspector: Well, under that statement I will have to hear Mrs. King.

Mrs. King: I should like, in the first place, to read a [3038] statement from Corpus Juris, although I realize that that is not the best authority.

Presiding Inspector: No. It only purports to be the editor's statement from the cases cited.

Mrs. King: But in view of Judge Goodwin's statement, that there has been no case in 120 years, and that statement is:

"The statements of a witness out of court after testifying that he had testified falsely and been hired to do so may be proved in court to discredit his testimony".

Now, there are a number of different jurisdictions in the United States. I am not attempting to state that in every jurisdiction this type of evidence is admissible. I am stating that in a number of jurisdictions, especially in New England, this type of testimony is regularly admitted. For instance, in Massachusetts and the Federal Courts in Massachusetts in the same way admit this type of testimony.

It seems to me, though, because of the split in authority which I referred to yesterday that perhaps the best discussion of the matter is the discussion of the text book writers. Those text book writers uniformly explain the reason for this rule, and they state that the reason for the rule is to avoid surprise on the part of the witness. That is the entire basis of the rule from the point of view of every text book writer. [3039] And that

being so, it is clear from this deposition, in so far as it was admitted in court yesterday—I mean, it was read in court yesterday—that the witness' attention was specifically directed to the other testimony. There was no question of surprise. There was no question of his not being able to explain discrepancies, which is what the Courts have—all of them—had in mind in this matter.

Wigmore, in his 1940 Edition, makes this perfectly plain. He also attacks as unreasonable the *rigidity* of the rule which in some jurisdictions prohibits the introduction of such testimony, and he said in that connection:

"The objection in brief is that, in many cases it is impossible for the impeaching party to ask the question while the witness is on the stand because, of course, it is often not until after the testimony is delivered that the prior contradictions are brought to the opponent's notice."

And later on:

"As there is at least an equal chance that the alleged contradictions were really uttered and cannot be explained away it is poor policy that favors exclusively the witness to be impeached by exempting him from impeachment. Justice demands with equal force that the impeaching party, if acting in good faith, should not be invariably the one to suffer under the rigid enforcement of the law."

[3040]

He goes on to say that the proper rule is that the matter is within the discretion of the trial court and then says:

"The modern tendency has been to enforce a rigid rule, but that it is to be hoped reaction will some day effect a correction of its rigidity in the interests of justice."

Now, in view of this state of the law, which is a state of uncertainty, in view of the fact that in administrative proceedings as we have said again and again, the rules are less rigid than they are in the common law courts, in view of the fact that Mr. Cannalunga is, as Mr. Gladstein suggested, to be in court probably tomorrow, it seems to me that this whole business can properly lie over; that there is no conclusive rule that this material cannot in any circumstances be received.

It seems to me, finally, that the very basis of the rule does not exist at the present time because there is no problem of taking the witness by surprise, which is the basis and reason for this rule.

Now, if your Honor wants to know the precise jurisdictions which decide one way or decide the other way (I have those cases with me on that problem. But it seems to me rather a waste of time to go into the matter where there is this conflict in authority, and cite one jurisdiction or another jurisdiction which is not binding on you, as the administrative authority in this case. [3041]

Mr. Del Guercio: May we have the citations?

Presiding Inspector: Certainly. Mrs. King will give them to you.

Mr. Del Guercio: The citations to support her proposition.

Mrs. King: Gould v. Norfolk Lead Co.,—

Mr. Goodwin: May I have that again?

Mr. Del Guercio: I will give it to you.

Mrs. King: (Continuing) —9. Cush. 737.

Presiding Inspector: That is a Massachusetts case.

Mrs. King: Yes. *Tucker v. Welch*, 17 Mass. 160. *Hedge v. Clapp*, 22 Conn. 262. *Sharp v. Emmet*, 5 Whart.—that is a Pennsylvania case—288. *Miller v. Pierce*, 86 Vt. 322.

Mr. Del Guercio: Are those all cited in *Cushing* 737?

Mrs. King: *State v. D'Adame*, 84 New Jersey Law 386.

Now, the case on which Wharton relies, particularly with reference to this matter, is the Vermont case of *Downer v. Dana*, 19 Vermont 345.

The Federal case which follows the Massachusetts case is *American Agricultural Chemical Co. v. Hogan*, 213 Fed. 416, which is the Circuit Court of Appeals for the First Circuit, decision of 1914.

So, as I say, there is respectable authority for giving your Honor discretion to allow this to be introduced, and [3042] respectable authority for the proposition that this is properly admissible.

In view of those circumstances it seems unnecessary at this time to strike it out. We believe that it is admissible. We are not trying to argue at this time as to its final admissibility in view of the future appearance of Mr. Cannalunga, and it seems to me that the matter can well be left over until tomorrow.

Presiding Inspector: I think it can be postponed.

Mr. Goodwin: May we recess at this time so we can check these cases that have been submitted? Then I will be prepared to argue.

Presiding Inspector: We will recess until 2:00 o'clock.

(Whereupon, at 12:35 P.M. a recess was taken until 2:00 P.M. of the same day.) [3043]

After Recess

2:00 O'Clock P.M.

Presiding Inspector: Now, Judge Goodwin, I think you were on your feet, or just getting off your feet, when we adjourned.

Mr. Goodwin: Pardon?

Presiding Inspector: Figuratively or literally you were on your feet when we adjourned when we were talking about this matter.

Mr. Goodwin: Yes.

Presiding Inspector: Had you concluded all you wanted to say?

Mr. Goodwin: I haven't said anything yet, your Honor.

Presiding Inspector: Well, I thought you said quite a bit. I will be very glad to hear you.

Mr. Del Guercio: This, your Honor, is an argument on the motion to strike the evidence and it is the law that we have been able to gather on that point.

Presiding Inspector: Certainly. One of you

made the point and that is what I referred to when I said I thought you had said a good deal.

Go right ahead.

Mr. Goodwin: Well, your Honor, I made one statement that was somewhat inaccurate. I said there had not been a case where testimony, or evidence, or statements made subsequent to [3044] the examination of the witness had been allowed in evidence for 120 years. I qualify that to this extent: 105 years ago there was a case in New York in which, without admitting prior testimony, there was a dictum of the Court to the effect—I mean subsequent testimony—there was a dictum to the effect that subsequent statements might be introduced. That case has been, as your Honor probably knows, repeatedly overruled.

My proposition is, first: That no subsequent statement can be introduced to impeach a witness, and that there is no authority at the present time to the contrary if we do not accept a Massachusetts decision of 120 years ago that has been repeatedly cited, but never on that point.

Now in *Corpus Juris* there is a statement to the contrary:

"Statements made after a witness has left the stand may, it has been held, be admitted to discredit him."

Now, the first case cited in *Corpus Juris* is *Thompson v. Ish*, 12 S.W., 510; 99 Mo, 160. The case is not in point. It isn't new that a case cited by *Corpus Juris* should not be in point. There the

question was in regard to a will, and the statements that were introduced in evidence were statements that were conflicting statements by the testator made before and after he made the will. And it has absolutely nothing to do with the case here.

The New York case referred to was *People v. Moore*, 15 [3045] Wend. (N.Y.) 419 and, as I said, cited 105 years ago. There the Court said:

"The rule is that what a witness has said at another time on the same subject may be used to impeach; and when impeached similar testimony may be given to support him."

Then this was said, entirely obiter:

"It can make no difference at what time these declarations have been made as to the competency of such testimony, though it may make much difference as to the effect of it. If a witness, the moment he leaves the stand, should declare that his whole testimony was a fabrication and if shown to the jury they would place no confidence in the testimony which he had given, etc."

Now, that was not made deciding the subsequent admissions could be introduced. It was merely the way the Judge illustrated the fact that nearness in point of time was important, but it didn't make any difference what time it was.

Presiding Inspector: Whose dictum is that?

Mr. Goodwin: Pardon me?

Presiding Inspector: Who was the Judge who said that?

Mr. Goodwin: Well, your Honor, it was before I came to the Bar and I can't remember.

Presiding Inspector: Perhaps if I saw the volume I would remember the incident.

Mr. Goodwin: I think someone refers to it later. [3046]

Presiding Inspector: You don't think either you or I would remember it, as old as we may be!

Mr. Goodwin: Well, in *Stacy v. Graham*, 14 N. Y., 492, that is the Court of Appeals, I take it, the Court overruled the decision in *People v. Moore*, 15 Wend. 419, pointing out that it was obiter, and said, at page 502:

"From this extract it is quite evident that the learned Chief Justice, instead of attempting to withdraw that case from the general rule on the subject, ignored the rule itself. His attention may not have been called to it. I think it was not then so well understood as it is now."

Then, again, referring to the same case, the testimony of a witness had been taken *de bene esse* and was read at the trial. After plaintiffs had rested the defendant offered to prove conversations with that witness after the examination in which he confessed that his evidence was false; that it was given under threats; that he regretted that he had to swear to it etc.

The Court of Appeals sustained the rejection of the testimony and expressly overruled *People v. Moore*. It said:

"The principle on which the practice essentially rests is that both the party and the witness are entitled of right to any explanation which the latter can give of the statements imputed to him."

Now, your Honor, the only case remaining that has held to [3047] the contrary is *Tucker v. Welsh*, 17 Mass., 160, decided, as I said, in 1821. In that case one Pennaman drew an order in favor of the plaintiff on the defendant on a policy of insurance. The defense was that before drawing the order he had assigned the policy to his brother. In his deposition he testified that the plaintiff knew of the assignment to his brother both before and after the order was drawn. The testimony was combatted by a witness who stated that after the deposition had been given he went with the plaintiff to call on Pennaman and asked Pennaman whether he did not intend the money due on the policy for him and he answered "Yes". The evidence was objected to on the ground the declaration of Pennaman, not under oath, could not be received to impeach the testimony given by him in his deposition. The objection was overruled. On the point the Court said:

"The credit of a witness may be impeached by saying that he has made a different statement out of court either before or after he has given his testimony."

Now, your Honor, the case was referred to in *Commonwealth v. Hawkins*, 69 Mass. 465, and *Bristol v. Plymouth*, 48 Mass. 257. I see those two and probably in other cases. But in all those cases the question was whether the rule that Mrs. King referred to this morning was binding in Massachusetts. And now I would like to refer to that rule. There was nothing about subsequent testi-

mony and, as I said, the cases are barren of any [3048] authority that subsequent testimony may be introduced.

Now, Wigmore on Evidence—I am taking the Second Division, Sections 1017, 1048, discusses this proposition:

It is the law everywhere that where a proper foundation is laid a witness may be impeached, by showing that he has, on a prior occasion, made statements to the contrary. It is likewise true that evidence of facts or subsequent statements by the witness are not admissible. The first proposition is supported in Wigmore on Evidence, where the matter is elaborately discussed. Throughout the contradictions are referred to as "Prior self-contradictions". In Section 1025 he discusses the matter of preliminary warning, and in Section 1028 says:

"In all but a few jurisdictions the rule is recognized and is enforced as an inflexible one. In a few jurisdictions its enforcement is left to the trial courts. In a few others it is not recognized at all."

I would say that in Massachusetts that rule that requires warning is not recognized at all. There may be some other jurisdictions in which it is not recognized, but I do not know of it. In Pennsylvania, for instance, in North Carolina, in Connecticut and some of the others it is discretionary with the Judge to say whether a warning must be given. And I would say in practically all these other states a warning is required and the witness is asked in advance whether he on such occasion

[3049] to such a person at such a place and time made such and such a statement, and that gives him an opportunity to meet that alleged statement and explain it or deny it or qualify it, or anything of the kind.

The United States Supreme Court, in practically all the cases, that is the rule. That was the English rule, that is the salutary rule, that is the rule that your Honor would overturn in this case. But, as I understand it, counsel for the Alien has suggested that when there is subsequent testimony then that rule of warning cannot apply.

Now, your Honor, I say in reply to that that where the testimony is impeached or sought to be impeached by a subsequent statement, there is no minority for its introduction at all. That is the point to which I have directed my argument up to this time.

But there is another thing that I want to say. Suppose it were otherwise? Suppose a witness could be impeached by his testimony—his testimony could be impeached by subsequent statements? You say “Well, he can’t be surprised because he knows about them.” Well, your Honor, that is a very vital question in the case. Did he make them?

Now, if a witness on the stand is confronted with a question as to whether he made prior statements he has for his protection the right of explanation. He should have the right of explanation. And, your Honor, that explanation comes before [3050] the evidence is offered. That is to say, you can’t go

in a trial and put in the testimony on the other side and then ask the witness to explain it! or, if he made it, to put the testimony in first. Well, in this case we have here alleged statements that have no proper place in this record. Is the witness to come in here and be put in a worse position with reference to those subsequent statements than he would be with reference to statements that he made before? If the witness is to be recalled to the stand and counsel for the alien wishes to rely on these statements as contradicting his former statements, then they should call his attention to those—I mean, those subsequent statements. If they wish to attempt to impeach him on the ground or to contradict him on the ground that he subsequently made these other statements, then before the statements are put in the record they must call his attention to them and say, "Did you in the office of the Attorney for the Alien," or some other office to which he had been taken, "Was this question asked and did you make this answer?"

That is the ground for putting in the evidence later. You can't put it in, you have no right, in the first place, to admit subsequent statements as impeaching, and you cannot properly rely on subsequent statements as impeaching until you recall him to the stand, and then ask whether on the former occasion he had made, or whether on such and such an occasion he had made those statements. He is just as much entitled to [3051] that protection as though he were sought to be impeached

on the ground of something he had said in Seattle or some place at some other time.

That is all, your Honor.

Mrs. King: If your Honor please, I cited this morning the statement in *Corpus Juris*, and I would like to repeat this statement because it seems to me more squarely in point than any other. It says:

"Statements of a witness out of court, after testifying, that he had testified falsely and had been hired to do so, may be proved in court to discredit his testimony."

The case cited in support of that general principle is *McGinnis v. Grant*, 42 Conn. 77.

In *Ruling Case Law*—

Presiding Inspector: What page in *Corpus Juris*?

Mrs. King: 70 *Corpus Juris* 1004.

In *Ruling Case Law*, under the heading "Prior Inconsistent Statements," that text states that "the variant statements may have been made either before or after the witness testified."

That general principle is supported by the case cited by Judge Goodwin, *Tucker v. Welsh*, 17 Mass. 160.

The question of the English law, apparently the law in England, was our way until, I say "our way," and I mean that the statement could be introduced without a foundation being laid until 1820. [3052]

On that point in the Third Edition of *Wigmore* he states:

"But this rule is by no means an immemorial tradition. The reasons above explained were not

worked out until well into the 1800s. The rule, as a rule, may be said to have had its birth with the response of the Judges in the Queen's case (quoted above) in 1820."

That is, up to that time this rule did not exist.

Coming back to the problem of the general principle which I dealt with this morning, when Wigmore starts explaining the reason of the rule he says:

"It has already been noticed that, to obviate the objection of unfair surprise, a natural expedient is to ask the witness, while on the stand under cross examination, whether he made the supposed contradictory statement."

Then he goes on, as I suggested this morning, to explain that the rule should not be an inflexible rule.

I want to say that I had an opportunity yesterday to examine, although I didn't make complete notes, the second Edition of Wigmore and the thing that is quite noticeable is the fact that between the Second Edition of Wigmore which, I think, is possibly 1924, and the present Third Edition of Wigmore, which was issued in 1940, it is quite noticeable that he modifies the wording of the rule and states, in the Second Edition, with reference to the rule, that it should be when it is impossible to produce the witness. [3053]

Mr. Goodwin: That is not the case.

Mrs. King: In the present edition he says "impossible to produce the witness because of absence."

That is clearly a slight modification of his conception of this rule.

Presiding Inspector: Is there any case arising between the publication dates of the Second and Third Editions?

Mrs. King: I didn't see any, but I have done so much work, and have done it so hastily, that I knew very little about it when I was through.

Presiding Inspector: It seems as though Wigmore explored his own conscience.

Mrs. King: That is correct. I don't think that Wigmore has done much on the cases.

Although I do think that the Federal case also is a case, the one I cited this morning, which is the American Agricultural Chemical Co. v. Hogan, 213 Fed., distinctly holds that a statement, and that statement was a prior statement, not a subsequent statement, could be introduced without laying a foundation. I should like, to—

Presiding Inspector: We don't have to meet this case that you suggest because I undoubtedly have the right, as the Presiding Inspector, to open the cross examination and that you proceed with cross examination. Then this question wouldn't arise because you will have Mr. Cannalonga here and will be able [3034] to ask him this question, which Judge Goodwin has very correctly, in general terms, stated; that is, you call his attention to the time, place and the occasion of the claimed inconsistent statements and let him tell whether he said that. I suppose there can be no explanation. If he says he did, he can tell why. So you can imagine a

hundred reasons why he may say "Yes." He may say, "I was drowning at the time."

Mrs. King: Correct.

Presiding Inspector: He may say, "It is possible," or something of that kind, "but I was all gowd up"—if that is the correct term, but I am not sure about the slang.

Mr. Grossman: "Gowd up"—that is correct.

Presiding Inspector: He may say, "Yes, I said that and it is true," and he may say, "Yes, I said that but they were threatening me and I wanted to get on my ship and go away."

Mrs. King: I am saying there is no reason to strike this at this time from the record.

Presiding Inspector: I am not going to strike it. I am going to let it stand until we hear from him. But I am not going to let you examine him on the basis of it being here in evidence.

Mrs. King: No. We will proceed from the original statement.

Presiding Inspector: In examining him you can only proceed from the original statement, and not from it as having been sworn to in this case, because it has not as yet been admitted [3055] for that purpose.

Mrs. King: We understand that and we will follow your Honor's suggestion in that connection.

Presiding Inspector: I will hold this motion until after we have heard Mr. Cannalonga.

Mr. Goodwin: Your Honor, do I—

Presiding Inspector: There will be no hardship on you. Assuming that Mr. Cannalonga will come

here and, we will say, he denies making this statement in Mr. Lord's office, that he will deny it, then they would have to call, if it is admissible at all, and they would undoubtedly try to put it in, they would call Mr. Shoemaker back again to testify to what he already said on the stand. Then——

Mr. Goodwin: (Interposing) My point is that it has no place in the record.

Presiding Inspector: Whether it is going in the record or not, I am not going to determine at this time. We are going to proceed in a rather informal way. We have got into a strange situation. We had a man coming down here from out of the State who is an official of the courts of Oregon. I thought it was undesirable to make him come down again, and for the purpose of simply avoiding his coming down again, I allowed the statement to be taken preliminarily. I am not saying that I won't strike it, and I am not saying that I will strike it. We will let the matter rest just as it is, [3056] in fairness to both sides, prohibiting counsel from referring to it as evidence in this case, until after we have heard Mr. Cannalonga.

Mr. Goodwin: Mr. Cannalonga should come in here without the testimony——

Presiding Inspector: He does, to all intents and purposes, and that is the way I treat it.

Mr. Goodwin: Your Honor will explain that to him? No one else can.

Presiding Inspector: Yes; I will explain it.

Mr. Goodwin: That there is no evidence in this

case, in this record, as to what he stated at that time?

Presiding Inspector: Yes; I will explain it.

Mr. Goodwin: Explain to him that there is nothing in evidence here, in regard to it.

Presiding Inspector: I will explain that to him to the dissatisfaction of both sides.

Mr. Goodwin: I think it is a matter of compromise. You might explain it to him to the dissatisfaction of the other side.

Mr. Del Guercio: If the Court please—

Presiding Inspector: It is going to be perfectly fair on the record—whatever Mr. Cannalunga says. If Mr. Cannalunga is not worthy of belief why you wouldn't want it to be proved. If he is worthy of belief you would want his testimony [3057] to be accepted.

Mr. Del Guercio: Absolutely.

Presiding Inspector: It isn't—even though everything that was testified to by Mr. Shoemaker, I mean tentatively testified, were true, even that wouldn't establish conclusively that he is not worthy of belief. That still remains a question for the trier of the facts.

Mr. Del Guercio: That is correct.

Presiding Inspector: I am speaking out loud so Judge Goodwin can hear.

Mr. Del Guercio: I might add further that we are also conducting an investigation to determine whether there were any illegal circumstances surrounding the taking of this statement on Sunday, the administering of the oath, and so forth.

Presiding Inspector: Yes.

Mr. Del Guercio: There is one other matter. The Court said that Mr. Shoemaker, the court reporter who appeared here to testify, would not be compelled to return. That does not preclude us from calling him?

Presiding Inspector: Certainly not. There is no misunderstanding there—of course not.

Mrs. King: There is a matter that I want to bring up at this time. The other day when I referred to the opinion of Wyzanski I didn't have available a copy of that opinion.

I am now submitting to the reporter a copy of the opinion. [3058]

I think there has been no number left for it but I assume some physical adjustment can be made for that. It was offered for identification immediately after the report of Dean Landis.

Presiding Inspector: It may be marked for identification only.

Mrs. King: Yes.

Presiding Inspector: So that any reviewing tribunal may know what we were talking about.

(The document referred to was marked for identification as Alien's Exhibit. No. 15.)

ALIEN'S EXHIBIT No. 15 FOR
IDENTIFICATION

January 3, 1934

To the Commissioner of Immigration and
Naturalization

Dear Sir:

You have asked my opinion whether the Secretary of Labor, acting under the authority of the Act of October 16, 1918, 40 Stat. 1012, as amended by the Act of June 5, 1920, 41 Stat. 1008, 8 U.S.C. Sec. 137, ought to deport Frank Borich, an alien, on the ground that he is a member of the National Miners Union.

In my opinion the Secretary of Labor ought not to deport the alien on the ground stated.

The voluminous file of the Department of Labor clearly shows, and the alien himself admits, that since 1928 he has been connected with the National Miners Union, first as organizer and later as National Secretary. The National Miners Union's original or 1928 constitution shows that it is primarily a militant left wing labor organization interested in a six-hour working day, minimum wages, social insurance, and national labor agreements achieved through strikes and an alliance of coal miners, railroad and transportation workers. The greater part of the constitution is devoted to provisions relating solely to the organization, administrative functioning and financing of the union.

However, in Article I of the original constitution, it is stated that the union shall "affiliate itself with the class-conscious labor movement of the world, and declare adherence to the program, principles and statutes of the Red International of Labor Unions." This Red International of Labor Unions, to which reference is made, is a "revolutionary world union of workers," operates in the United States through the Trade Union Unity League, i.e. the TUUL, and advocates "a united struggle against international capitalism" rather than the "nationalistic and patriotic stand of the reformist trade unions." There is in the record no evidence, other than this declaration, that the National Miners Union has ever been closely connected with the Red International, and Borich claims that this declaration was omitted from and repudiated by the present constitution of the National Miners Union, supposed to have been adopted on March 20, 1932.

Moreover, the actual history (as distinguished from the platform) of the National Miners Union does not reveal that the organization has ever indulged in any physical or verbal attack upon the American political structure, although it, like more conservative bodies, may have severely criticized individual governmental officials and, like other labor unions, may have violated particular governmental orders. Throughout its life the union has been an industrial force rather than a political one.

Its conflicts with the United Mine Workers of America and with operators of coal mines have been its chief preoccupation. It may have had individual Communists for leaders. It may have accepted the thesis of the class struggle. It may through cooperation with the Trade Union Unity League have tried to promote labor organization on a vertical and industrial basis (an end which can hardly be criticized by officials of this Administration and supporters of General Johnson). But there is no evidence that as an organization the National Miners Union has ever executed or advocated policies aimed at the overthrow of the government of the United States.

Under these circumstances I am of opinion that the National Miners Union is not itself an "organization * * * that * * * teaches the overthrow by force or violence of the government of the United States," and is not so closely related to any revolutionary organization advocating such a doctrine that mere membership in the Union should be treated as affiliation with the revolutionary organization.

I do not mean to say that the case is so clear that a reasonable man could not reach a different result from mine. The evidence about the nature of the Union is conflicting and susceptible of different interpretations. If a Secretary of Labor decided that this National Miners Union and like vertical unions, by emphasizing class struggle and

similar doctrines, showed that they were inherent parts of a Communist scheme to overthrow the government of the United States by force or violence, and if a Secretary of Labor issued warrants ordering the deportation of the members of all such unions, the courts would not release the aliens on writs of habeas corpus. *United States ex rel. Borich v Marshall*, unreported (C.C.A. 3, October 19, 1933); *Kjar v Byak*, 61 F. (2d) 566 (C.C.A. 7, 1932); *Wolck v Weedin*, 58 F. (2d) 928 (C.C.A. 9, 1932); *Berkman v. Tillinghast*, 58 F. (2d) 621 (C.C.A. 1, 1933).

But the function of the courts under our deportation system should not be forgotten. The courts do not and cannot hear appeals from the Secretary of Labor. A judge can set aside a deportation order only when the Secretary has committed an "error so flagrant as to convince a court of the essential unfairness of the trial." *United States ex rel. Vajtauer v Commissioner of Immigration*, 273 U.S. 103, 166 (1927); cf. *Lloyd Sabaudo Societa v Elting*, 287 U.S. 329, 335-336, 338 (1932). In other words there never can be a court decision (though there may be dicta), holding that the Department of Labor was incontrovertably right in ordering a deportation. A judge in quashing a writ of habeas corpus merely decides that the Secretary had some evidence justifying deportation; he may feel that the Secretary would have been at least equally justified in making a decision not to

deport, but in his official capacity the judge has no right to say so.

There is an important reason for emphasizing at this point the limited role of the courts. One Secretary of Labor may have a strong dread of political revolution accomplished through industrial organizations. Or one decade may find the American people alarmed at the supposed menace. These fears may lead to the issuance of warrants for the deportation of members of such industrial organizations. And since there will be some evidence to sustain the Secretary of Labor, our courts cannot set aside the warrants. But succeeding Secretaries of Labor and later decades may view the danger as less real and may interpret the facts differently or weight the evidence with altered results. It is of cardinal importance that in such close cases the Secretary of Labor should recognize that he is free to decide either way; no court decision even on the very case that he is considering can properly be cited to restrain his choice; if he selects deportation he should realize that is because it is his administrative pleasure to perpetrate the policies of his predecessor and not because it is his duty under court decisions.

The instant case seems to me to be one in which the Secretary of Labor, while he would be, and indeed has been, sustained by the courts in ordering deportation ought not to have gone so far. The National Miners Union is one of a group of left

wing labor organizations. Membership in each such union is avowedly solicited only from those working in a particular industry. Activities are directed almost exclusively in economic channels. Antagonism, if any is promoted, is toward the older and more conservative unions, not toward democratic government. For the United States to deport a man merely for membership in such a union is to deport a man for seeking to overthrow conservative union domination, not for seeking to overthrow the government of the United States.

At this particular time, when the government is giving to workers "the right to organize and bargain collectively through representatives of their own choosing" regardless of the radical character of the representatives (National Industrial Recovery Act, 7(a); 48 Stat. 195, 198), when it is encouraging left wing labor leaders to present their radical views before deputy administrators charged with the formulation of codes of fair competition, it is only consistent for the Department of Labor to leave unmolested members of a left wing labor union unless the union is a mere subterfuge for political sedition or unless the individual member himself teaches the overthrow of the government of the United States by force or violence.

Upon the record as it now stands, neither the Board of Review nor I feel justified in finding that Borich himself advocates such overthrow, or that he belongs to any purely political movement that has that goal. (The evidence on this point

shows nothing more than that some articles bearing a name resembling Borich's were reprinted in radical papers like the Daily Worker.) In the absence of such a finding and with merely membership in the National Miners Union proved, I do not believe Borich should be deported. To such an extreme we ought to proceed reluctantly and only after clear and convincing proof that the political institutions of our country are actually menaced.

I may further add that in my opinion the principle that I have stated seems to me to apply to membership not only in the National Miners Union but in all left wing labor unions that are not mere shields for political revolution such as the Marine Workers Industrial Union, Metal Workers Industrial League, Tampa Tobacco Workers Industrial Union, the National Textile Workers, International Labor Defense, and the Trade Union Unity League.

/s/ Charles E. Wyzanski, Jr.

CHARLES E. WYZANSKI, JR.

Solicitor

In view of the opinion of the Solicitor of Labor, and in view of definite assurances that the Trade Union Unity League has severed any affiliation it may have had with the International Labor Union, I hereby direct that hereafter no warrant for the deportation of any alien shall be issued or executed if the sole ground for the warrant is his membership in any of the following organizations: National

Miners Union, Marine Workers Industrial Union, Metal Workers Industrial League, Tampa Tobacco Workers Industrial Union, the National Textile Workers, International Labor Defense, and the Trade Union Unity League. This order shall not be construed to prevent the issuance or execution of warrants for the deportation of aliens who themselves advocate the overthrow by force or violence of the government of the United States or who are members of political organizations that advocate a similar goal,

(signed) Daniel W. MacCormack

DANIEL W. MacCORMACK

Commissioner of Immigration
and Naturalization

CEW:F

(signed) Turner W. Battle

TURNER W. BATTLE

Assistant to the Secretary of
Labor

Mr. Grossman: It was suggested by you that we might utilize such time as we have this afternoon—might be considered such a time—to read into the record those portions of the testimony of Mr. Bridges as we might feel, and you would agree, were relevant, considering the portions that were read in by the Government.

Though we are not prepared to read in any par-

ticular portions of the transcript, we have a general argument to make which we think, if we are correct, covers the question very thoroughly.

We have made a more or less superficial analysis of the testimony of Mr. Bridges in the last hearing for the purpose of determining what our position will be on the admissibility of other portions. We cannot see how, in fairness to Mr. Bridges, or as a legal matter, it is possible to admit those portions [3059] that were read by the Government without also admitting in evidence in this proceeding the entire testimony of Mr. Bridges.

There is no sense in my calling your Honor's attention to the general principle that applies to documents and things, that you must read the whole thing as it was intended to be given as a whole.

I think your Honor can also well recognize that you cannot detach portions of a man's thinking and of a man's ideas, and of a man's judgments, and of a man's actions from other portions.

Quite obviously it is impossible to understand, or to correctly judge the position of Mr. Bridges on the Marine Workers Industrial Union without considering and judging his position on unions generally.

It is impossible, as your Honor will note if he looks specifically at the problem of the Marine Workers Industrial Union, it is impossible to judge Mr. Bridges' so-called admissions on that question without also considering his attitude and his con-

duct, as indicated in his testimony, towards the strike situation around which the evidence developed, that is, the 1934 strike, because his testimony will show that this was integrally tied up with the strike situation and the organization of labor around the period of the 1934 strike.

Likewise, the statements of Mr. Bridges with respect to the IWW, the statements of Mr. Bridges with respect to any [3060] political organization that may have been referred to in the admissions, or with respect to any trade unions that may be referred to in the admissions, can't be properly or fully or adequately, or fairly judged, except with relation to Mr. Bridges' whole idea on all these general questions. Now, true, we could go through line by line and paragraph by paragraph the testimony of Mr. Bridges in the last hearing. If we did that there is no doubt in my mind that we could find perhaps one-tenth of the pages, perhaps some sentences here and there, which, even under our theory, would not be needed in evidence to correctly portray his views. I will admit that. But I say that portion is so small, and the labor involved would be so great, the time that would be involved in arguing here as to each sentence, or each paragraph, would be so great, considering the end to be gained, that we shouldn't become involved in that.

All I can say is that we considered the major part of his testimony on his beliefs with respect to these general questions of trade unions, and po-

litical parties, and political views, and his personal views, would have to be admitted and, as a matter of law, would have to be admitted along with the alleged admissions that have been admitted.

I am not saying that we would desire to, would actually have to, although I think we have the legal right, to read it all in evidence. We might wish to read portions. Frankly, [3061] those portions won't take long to read. But I think we are now discussing only the right to introduce it in evidence, not the right to read it. I think we should decide at this time, therefore, whether we may be permitted to introduce into this hearing the entire testimony of Mr. Bridges at the last hearing and on the grounds, as I stated, to recapitulate: That as a legal matter it is impossible to introduce part of the questions and answers of Mr. Bridges without the balance; and as a practical matter, and a logical matter, we can establish, obviously, connections between the general views of Mr. Bridges and the views on trade unions generally, and the alleged admissions, or portions that constitute alleged admissions, according to the Government's theory.

Presiding Inspector: How long is the testimony of Mr. Bridges?

Mrs. King: Three days of testimony was taken. It is almost 600 pages—between 500 and 600 pages.

Presiding Inspector: How many pages did the Government introduce?

Mr. Del Guercio: We didn't introduce it by pages.

Presiding Inspector: I know; you read it, but how much would it cover?

Mr. Del Guercio: I think the reporter could give an estimate of that better than I could. About 15 pages at the most. [3062]

The Reporter: I would estimate between 50 and 60 pages.

Presiding Inspector: The reporter says between 50 and 60 pages as an estimate.

Mr. Del Guercio: There is another matter—

Presiding Inspector: This is very difficult for me to rule on. I am asked to rule on something without ever having read it.

Mr. Grossman: I agree, and I think your decision would be more accurate and fair if you read it first. We are perfectly willing to withdraw any request for a decision at this time until you have read it, because I think your reading of it will indicate to you the necessity of introducing at least large portions of the testimony in order to adequately and legally complete the evidence. We are willing—we don't have a copy here—to produce those volumes that deal with Mr. Bridges' testimony.

Presiding Inspector: I haven't a copy.

Mr. Del Guercio: I will make one available to you.

If that is the ground upon which the defense are seeking to introduce it—and we do not concede it is proper—it is answered in that they said they were going to call Mr. Bridges to the stand. He

will have an opportunity at that time to explain anything, and every statement that he made in the prior hearing.

Presiding Inspector: But they will have a legal right to [3063] introduce all explanatory matter.

Mr. Del Guercio: We don't deny that.

Presiding Inspector: Or anything connected with the subjects covered by the matter which you introduced.

Mr. Del Guercio: We don't deny that.

Presiding Inspector: Their argument is that it is all an integral part, a single thing.

Mr. Del Guercio: We don't concede that. We had no difficulty in picking out that portion of it and I think we were fair in doing it. Of course, we may have missed some, we admit that, but we tried to be as fair as possible and got all of his testimony on the particular subjects that were chosen.

Now, it isn't integrated. They are distinctly separate. The IWW is distinct from any other organization.

Presiding Inspector: All there is about the IWW would be competent, probably.

Mr. Del Guercio: Correct. The Marine Workers Industrial Union, all of his testimony in connection with that has been cited. If we missed any we will stipulate that it may be entered in the record. That is a distinct subject. It isn't integrated.

with anything else that Mr. Bridges might have testified to. It isn't integrated with his testimony on trade unionism.

Evidence has been submitted as to what the Marine Workers Industrial Union is, and the purpose why it was introduced has been [3064] indicated.

Presiding Inspector: I think that is all very true. I am troubled with the practical way to proceed here. [3065]

Mr. Del Guercio: Well, as a practical matter then, inasmuch as they have indicated that Mr. Bridges is going to be called to the stand, he could then explain and make any explanation that he desires to make.

Presiding Inspector: I realize that, but I still think they have a right to introduce any other testimony given by Mr. Bridges in the former hearing which bears upon the same subject matter which you introduced.

Mr. Del Guercio: We don't deny that. We will give them that opportunity. But that isn't what they want. They want to introduce his entire testimony on other subjects.

Presiding Inspector: It deals with it because it has been said that it has been integrated as a whole.

Mr. Del Guercio: You will have to read the whole testimony, then. But I don't believe they make that seriously, if your Honor please.

Mr. Goodwin: We have offered this testimony as admissions by the other side.

Presiding Inspector: I know.

Mr. Goodwin: We tried to put in everything of a qualifying nature that he testified to. If there is anything more they should offer it specifically and not the hundreds, I don't know whether it is thousands, of pages that he devoted to other matters, because on those other matters we have a [3066] right to cross examine and it is not competent evidence on his part.

Presiding Inspector: There is no dispute between you.

Mr. Goodwin: Only so far as the specific things that he will offer, pointing out their connection, do have the connection with what we have already put in the record.

Presiding Inspector: But the assertion, Judge Goodwin, is—and, of course, I have never heard or seen this matter—that it all has to do with it. Now, it is a mere assertion.

Mr. Goodwin: It all has to do with it?

Presiding Inspector: That is what they assert.

Mr. Goodwin: All right.

Presiding Inspector: They say there is a negligible amount, which they estimate at not over one-tenth of the whole testimony,—60 pages at the most of 600—which perhaps could be separated and which they wouldn't care about. But they say that would be labor which would not be productive of any good.

Mr. Goodwin: We have a right to cross examine Mr. Bridges in regard to anything—

Presiding Inspector: (Interposing) Oh, certainly, when he is put on the stand.

Mr. Goodwin: Yes. And we have a right to cross

examine him about the things that are in this statement.

Presiding Inspector: They covered it in the original [3067] examination, undoubtedly, and perhaps you would be allowed to go farther.

Mr. Goodwin: I don't know how it is competent.

Presiding Inspector: Well, it isn't competent and they don't claim that it is competent save for one reason, and they say it is an integrated whole.

Mr. Goodwin: Yes. I think it encumbers the record, makes greater difficulties, does not in any way implement the progress of this case and it permits them to put in a lot of testimony that has no relevance to the questions of the mere 50 pages that we put in the testimony. I think that Mr. Del Guercio has already indicated that.

Presiding Inspector: I think I will have to read it.

Mr. Grossman: Yes, sir. We will furnish you such volumes as include all the testimony of Mr. Bridges.

Presiding Inspector: Mr. Del Guercio has a copy. He will furnish me with it.

Now, in your copy, Mr. Del Guercio, have you indicated in some way what you have introduced? Is it marked?

Mr. Del Guercio: Yes, I have. I have copies of it. I will make them available to you. We have typewritten the portions of the testimony with the page references on. We will make both the transcript of the prior hearing available to you on that matter. [3068]

Presiding Inspector: I suppose strictly it would be your duty to segregate the parts that you concede would not be admissible, but I would have to read it anyway.

Mr. Grossman: Your Honor, I haven't conceded quite that much. It seems to me under all the cases I say it is not relevant. It is probably admissible even though it is not relevant, because it seems to me that all the cases say when you take one sentence out of a book you have to take the whole book. I think under the law probably all of it is admissible, if not relevant. But I don't think that task is worth while of going through and weeding out those portions that are relevant. We are perfectly willing to do it, if you want to waste your time, their time and our time, because we will have to argue it also, because there will be differences of opinion, quite obviously. If we assume that we are going to judge the relevancy of each sentence and each paragraph—

Presiding Inspector: (Interposing) No, we are not going to do that.

Mr. Del Guercio: If that is his concern, then why not take the obvious way? Wait until Mr. Bridges gets on the stand and then question him on the matter.

Mr. Grossman: If that is true, why introduce it at all? Mr. Bridges might admit all these things that they admit were in the last hearing. Frankly, I don't know as a matter of [3069] law, before Mr. Bridges takes the stand, that they have a right to introduce these things which he might admit. We

didn't object to that because we didn't think it would make any difference.

Mr. Del Guercio: Why bring it up?

Presiding Inspector: Undoubtedly you have a right to complete by introducing the testimony on the same general subject and, of course, the Examiner would be liberal in viewing the question of whether it was on the same subject or not. A Court always is. And here are 600 pages taking up three days of testimony offered in evidence in a single sentence, practically. If I wanted to be technical I could exclude it on your own statement that there are parts that are irrelevant, but I don't want to be——

Mr. Grossman: (Interposing) No, not legally irrelevant.

Presiding Inspector: But I don't want to take any such view.

Mr. Grossman: Does that complete that question?

Presiding Inspector: I don't know. I don't know.

Mr. Grossman: I mean for the present.

Presiding Inspector: It doesn't seem to determine exactly what we had better do.

Mr. Grossman: I think we have agreed that you shall have the time to read the——

Presiding Inspector: (Interposing) I don't want to post- [3070] pone the trial. Three days' testimony will probably take me quite a time to read.

Mr. Grossman: I don't see any special hurry on

this. I only raise it at this time because we have this time to spare now. But it can be decided, I suppose, at any time before the end of this case or before Mr. Bridges testifies.

Presiding Inspector: Yes. I think it ought to be decided before Mr. Bridges testifies.

Mr. Del Guercio: Yes.

Mr. Grossman: So we know how we stand on it. If we are finished, your Honor, —

Presiding Inspector: (Interposing) I will do this task, with the assistance of my secretary, and we will get through it as soon as we reasonably can.

Mr. Grossman: Now, we have to state, as we did this morning, that by reason of the two rulings which deprived us of some witnesses which we had arranged for today, and though we did try we were unable as we thought we would be during the noon hour to line up any witnesses.

Presiding Inspector: Well, you have only got an hour and a quarter more. We have had a good deal of interruption today, unavoidably. I think we will recess until tomorrow morning.

Mr. Del Guercio: Before you recess, if the Court please, I would like to get along as fast as I can. The Government is [3071] anxious to, you are anxious to and I suppose they should be anxious too.

Presiding Inspector: I think we are all anxious to get along.

Mr. Del Guercio: I think they ought to be told and admonished to get their witnesses together so we don't have any continuances.

Presiding Inspector: I don't know whether you

were here. I have an impression that you stepped out at the particular moment I said something along that line to Mr. Gladstein. No, it was at the close when we adjourned over the three days.

Mr. Del Guercio: You admonished Mr. Gladstein to make every—

Presiding Inspector: (Interposing) You can call it "admonished" if you want to.

Mr. Del Guercio: I just used that word.

Presiding Inspector: I told them that I thought every effort should be made to continue this case and to use all the time that we have from ten o'clock in the morning to four o'clock, or slightly after, in the afternoon in the introduction of testimony. And I repeat that, Mr. Grossman. Proceed with that in view. We all do want to progress this case and I think you want to progress it with the rest of us.

[3072]

Mr. Grossman: May I make a suggestion?

Presiding Inspector: I want to give you the full opportunity to do what you deem is necessary evidence to protect your client's rights.

Mr. Grossman: May I make a suggestion which may prevent this occurring again? The question of whether or not we would be permitted to put on Mr. Craycraft and the reporter was a legal question and which it must be recognized there is certainly a difference of authority as to whether such a rule as has been invoked would be or would not. Obviously the only way we could get a ruling on that is to produce the evidence and be prepared for the cross ex-

amination, which we expected would be allowed, or the direct and the cross.

On the character witnesses, frankly, though we wish to continue discussing the legal questions with your Honor and prepare a memo, there are obviously unsettled questions on that. And the fact that Dean Landis permitted it in the last hearing is one indication that the question is to some extent unsettled.

Now, obviously we had to prepare our character witnesses far in advance and we obviously had to line up several. We think of at least one major legal question which may result in our not being permitted to question witnesses that we will have lined up and produce which, if we had the answer in advance, [3073] we might avoid.

I am not raising this specific legal question, but I am wondering whether it is possible for us to have a discussion and get something of the nature of an advisory opinion as to a particular type of evidence. It is another question that is on the border line, at least for proceedings like this, and we have to know in advance because it takes time to line up witnesses. And if we aren't allowed to produce them we may also have to ask for an adjournment because our witnesses who are prepared are not permitted to testify.

Now, would you be willing to have such a discussion in advance if we can formulate the legal question as accurately as putting on a witness would (and we can do that) in advance of our presenting such witnesses? I recognize—

Presiding Inspector: (Interposing) I don't know what the question is.

Mr. Del Guercio: This is really unusual.

Presiding Inspector: Yes, it is unusual.

Mr. Grossman: I am only saying it because it takes time. We don't like to produce witnesses who have important things to do, who must neglect their work or lose some money at great expense sometimes. We don't like to have them lined up and produce them here and to find that the type of testimony which we consider relevant and valuable to this hearing is not per- [3074] mitted, and then not only have the expense and the time wasted but also not have any other witnesses to go ahead.

That is why I suggest this.

Presiding Inspector: I don't want to ask what the subject was, you understand, but was it a subject which was canvassed at the time that Dean Landis had the prior hearing?

Mr. Grossman: No.

Presiding Inspector: I don't know how to answer your question, frankly.

Mr. Grossman: Would you have any objection to discussing it? The question may be such that if you feel we can't get anywhere in advance of the production of witnesses—

Presiding Inspector: Could I make a suggestion?

Mr. Grossman: Yes.

Presiding Inspector: Could you produce one witness and ask the questions?

Mr. Grossman: We can do that.

Presiding Inspector: Wouldn't that be the best way? Then we would have a ruling on the type of questions.

Mr. Del Guercio: That would be the legal and proper way. Of course, there is this question here, you see,—

Presiding Inspector: (Interposing) We are talking about something which you and I don't know anything about.

Mr. Grossman: We will try it that way. That would delay the test, but I suppose we can do it properly in that way. [3075]

Presiding Inspector: I think perhaps that would be the most satisfactory way.

Then we will recess until tomorrow morning at ten o'clock.

(Whereupon, at 2:50 P. M. an adjournment was taken until Thursday, May 8, 1941, at 10:00 A. M.) [3076]

Court Room 276,
Federal Building
San Francisco, California,
May 8, 1941.

Met, pursuant to adjournment, at 10:00 A. M.

[3077]

PROCEEDINGS

Presiding Inspector: Mr. Grossman, referring to your offer of all the balance of Mr. Bridges testimony, of course, I have not yet seen the record, but in going over Dean Landis' opinion it appears that

there was testimony in relation to two or three meetings, at least, which have not come within this case at all. It seems to me that they can clearly be segregated.

Mr. Grossman: We agree to that.

• Presiding Inspector: I will have to ask you to make a little more definite offer separating such matters as that, at least.

Mr. Grossman: We will separate all references to particular testimony—

Presiding Inspector: Particular instances.

Mr. Grossman: —instances of meetings.

Presiding Inspector: Yes; that have not been brought into this case.

Mr. Grossman: Yes.

Presiding Inspector: Then I won't look at the testimony until you have done that. Then I will consider the offer as presented in that way.

Call your next witness.

Mr. Grossman: One moment, your Honor.

Mr. Gladstein: If your Honor please, on the question of [3078] Mr. Cannalonga, and the question of the testimony of Mr. Craycraft, which we had intended to produce yesterday morning, we are now informed by Mr. Wixom's office that an effort was made by the Portland office of the Immigration Department to serve a subpoena on Mr. Cannalonga at 10:30 A. M. yesterday. That is the information that we have received.

I am also informed by Mrs. King that Mr. Wixom stated that he had phoned to Portland authorizing and directing the immediate service of such a sub-

poena by or prior to 9:00 A. M. yesterday—well, early in the morning.

Presiding Inspector: It couldn't have been then.

Mr. Gladstein: Rather, prior to 10:00 A. M.

Mrs. King: At the time I was in the office the call came in from Mr. Wixon. That was prior to the opening of court yesterday.

Presiding Inspector: That is pretty prompt.

Mr. Gladstein: Now, we consider, of course, the testimony on this subject as very, very important. We have a problem which we cannot solve without some determination by the Court. As I said earlier, we have Mr. Craycraft in San Francisco ready to testify. I don't know just exactly what can be done.

I may say this in addition:—

Presiding Inspector: I think Mr. Cannalonga will be found. [3079]

Mr. Gladstein: We have been informed, your Honor, that from the time—

Presiding Inspector: (Interposing) Of course, I have no knowledge of that.

Mr. Gladstein: Yes. We have been informed from Portland by members of the longshore gang that were working near the dock where Mr. Cannalonga was working on the ship that from the time that his name came up the day before yesterday, by virtue of the testimony of Mr. Shoemaker, very shortly after that two men who are believed by the longshoremen to have been agents of the FBI took their station at that dock and remained constantly keeping that ship under surveillance.

Now, that is our information.

Mr. Del Guercio: Now, if your Honor please, in view of that statement of counsel I have this statement to make.

Mr. Gladstein: I haven't yet finished, your Honor.

Mr. Del Guercio: That we have——

Mr. Gladstein: I haven't yet finished, your Honor.

Mr. Del Guercio: May I proceed?

Presiding Inspector: Let him finish. Then I will let you make your statement. This is only in relation to getting this witness, that is all.

Mr. Del Guercio: Yes. We have some statement to make in that connection. [3080]

Presiding Inspector: Go ahead.

Mr. Gladstein: We are very anxious to have his testimony, and if his testimony is not obtainable then of course, we desire to put on the testimony of Mr. Craycraft and to finish the testimony that Mr. Shoemaker would have given. But of course, that already is, technically at least, admitted into the record.

Presiding Inspector: Yes.

Mr. Gladstein: And your Honor can make a ruling fully admitting it, I suppose. I don't know exactly what that is.

Presiding Inspector: I don't think he has quite finished, Mr. Del Guercio.

Mr. Gladstein: Now, in addition to the information that I have already indicated that we have, we have been advised by telephone from Portland that

Mr. Cannalunga was on the ship between 10:30 and 11:00 o'clock yesterday morning and that he talked with various people; that he was working in his room—or was in his room and that he was working on that ship. At least one longshoreman talked with him at 10:30 A. M.

We are also informed—this is being further checked—that a member of the crew talked with Mr. Cannalunga at 11:00 o'clock in the morning and that he was on the ship, and that Cannalunga's disappearance occurred after 11:00 o'clock in the morning and before 12:30 noon; sometime during that hour and [3081] a half. We are attempting further to check as to whether any of the longshoremen or other workers around there saw Mr. Cannalunga or talked with him after 11:00 o'clock yesterday morning.

We are also informed that the FBI agents, or the people whom the longshoremen and other workers there took to be FBI agents and who had began to keep the ship under surveillance right after, shortly after Mr. Shoemaker took the stand, also left and have not been seen since this period sometime between 11:00 A. M. and 12:30 noon.

Presiding Inspector: What time was it yesterday that we received word that he had left?

Mr. Gladstein: What is that, your Honor?

Presiding Inspector: What time yesterday was it that we received word that he was reported to have left the ship at 8:00 o'clock.

Mr. Gladstein: Sometime in the afternoon, as I understand it; and the first report, as I understand

it,—I wasn't here in court at the time, your Honor,
—was—

Presiding Inspector: (Interposing) I can't remember what time it was.

Mr. Gladstein: Well, it must have been around 2:00 or 3:00 o'clock, I think. And the first report, as I understand it, that came to your Honor was that Mr. Cannalonga had disappeared between 8:00 and 9:00 in the morning. [3082]

Presiding Inspector: 8:00 o'clock, yes.

Mr. Gladstein: Well now, as I say, our information is that Cannalonga was working on that ship at 10:30 and at 11:00 and perhaps after that. We are trying to check further with the men who worked with him.

Presiding Inspector: Of course, he may have been working there and yet it may have been reported that he had left. These fellow workmen of his, of course, I can imagine, numerous things. They may have concealed him on the ship. We don't know anything about that. It is all supposition. It doesn't make any difference anyway. I know the Department is making every effort—I "believe" it. I don't "know" it—to find Mr. Cannalonga.

Now, I will hear Mr. Del Guercio.

Mr. Del Guercio: May I proceed, your Honor?

Presiding Inspector: Yes.

Mr. Del Guercio: If your Honor please, this is a very funny effort on the part of counsel to besmirch the FBI.

Presiding Inspector: I don't so take it.

Mr. Del Guercio: What I am about to say now is not supposition but facts. Counsel knows that Craycraft and Lowry and Cannalunga were drinking liquor with Cannalunga on that boat Monday night. Counsel knows that Cannalunga and Lowry, Jack Lowry, a member of the Communist Party, a known [3083] member of the Communist Party—was with Cannalunga on Tuesday night on that boat drinking liquor. Counsel says that the FBI men were watching that boat. He knows that is not true. Those officers that were watching the boat were Immigration men and for the purpose of serving the subpoena.

Mr. Gladstein: I didn't hear it.

Presiding Inspector: They were Immigration Officers.

Mr. Gladstein: Oh, Immigration Officers.

Mr. Del Guercio: For the purpose of serving a subpoena on Cannalunga that I had issued, and they were unable to locate him.

Now, it is apparent from the facts—and we are prepared to support every statement that I have made here to this Court in this connection—it is not supposition. It is apparent that it is counsel here that is deceiving this Court, concealing facts, distorting facts in a desperate effort—

Mr. Gladstein: (Interposing) That is a reprehensible and scurrilous lie! And I want the record to show that.

Mr. Grossman: Your Honor,—

Presiding Inspector: We will strike this statement out.

Mr. Del Guercio: If counsel makes another statement like that——

Presiding Inspector: (Interposing) We will have order in the court room!

Mr. Grossman: Your Honor, let—— [3084]

Presiding Inspector: (Interposing) Now, Mr. Gladstein, you know that you ought not to say things like that.

Mr. Gladstein: Your Honor, did you hear the charge that he made?

Presiding Inspector: He said you are trying to besmirch the FBI.

Mr. Gladstein: He said I was trying to distort the facts and deceive the Court. And I denied it, and I denied it in the language that occurred to me and I think it was appropriate.

Presiding Inspector: I don't think it is appropriate language. It doesn't help your case.

Mr. Gladstein: It isn't a question of helping our case.

Presiding Inspector: I am not interested in anything else here save only whether there will be evidence here—believable evidence—a greater weight of evidence that Mr. Bridges is subject to the charge which is made by the Government. That is all I am interested in here. These passes between counsel leave me very cold.

Now, of course, I can understand your resentment, but I think you ought to restrain yourself.

And I don't think you (addressing Mr. Del Guercio) ought to characterize either until evidence

is produced the intentions or conduct of your adversaries.

Now, let us go on with the case. [3085]

Mr. Grossman: There is something else—in so far as those remarks of counsel have not been stricken from the record—since, very frankly, there has been in the reporting of what happened yesterday, at least in some newspapers, the clear statement, not only implications, that the defense had done away with Mr. Cannalonga, or had prevented him from appearing, this statement must be made and that is—

Presiding Inspector: I am not interested in newspapers. I haven't read the article.

Mr. Grossman: Mr. Del Guercio's statement has not been stricken, and his statement was that there was something connected with Mr. Cannalonga's disappearance in the fact that Mr. Mowry and Mr. Craycraft talked to Mr. Cannalonga.

Presiding Inspector: That isn't evidence in this case.

Mr. Grossman: Mr. Craycraft and Mr. Mowry did talk to Mr. Cannalonga, and at the last time they talked to Mr. Cannalonga he was not going to dodge any subpoena. He was prepared to accept it. That is the reason that we made these statements we made.

Now, we are not denying the fact that we talked to him; we are not denying the fact that so far as we know he was willing to accept a subpoena at the last time he was talked to which was even later, as our information goes, than the time that the Im-

migration Service states he was not present on that ship. [3086]

Now, the reason I am making this statement is because Mr. Del Guercio's statement was not stricken from the record.

Presiding Inspector: We will let your statement stay or go with his; but we are interested in continuing this hearing.

Mr. Grossman: We would like to say this: We certainly have an interest, and a very serious interest, at this time in not only having the facts clear about Mr. Cannalonga, but having Mr. Cannalonga brought down here.

Frankly, although we are casting no aspersions, there are certain questions that concern us very much. Those questions are how it happened that Mr. Cannalonga was not present on that ship at the time the subpoena was served, and as to whether or not any efforts can be made by this Court, by the Immigration Service, to find Mr. Cannalonga. That is the reason I raise the question as to the last time he was seen on that ship.

Now——

Presiding Inspector: I don't see that it is material here at all.

Mr. Grossman: I am concerned, your Honor, with what efforts——

Presiding Inspector: I, as a subordinate officer of this service temporarily, have no means of controlling the issuance of this subpoena. I have made a request. Everything is left to the District Director. [3087]

Mr. Grossman: There are——

Presiding Inspector: As far as I am concerned, I am powerless.

Mr. Grossman: Your Honor——

Presiding Inspector: You understand that, of course.

Mr. Grossman: Your Honor, we have attempted to offer the testimony of Mr. Craycraft or, rather, Mr. Shoemaker, and your Honor has ruled that first Mr. Cannalunga must be obtained. It is on the theory, I assume, that so long as a subpoena can be issued he is theoretically available. If that be true then we definitely have an interest in whether an effort——

Presiding Inspector: You are going to have an opportunity to prove all these things. What is the use——

Mr. Grossman: (Interposing) May I finish my statement, please?

Presiding Inspector: Certainly you may.

Mr. Grossman: My statement is this: We have a direct interest in seeing that efforts, reasonable efforts, more than reasonable efforts, are at this time made to secure the attendance of Mr. Cannalunga. And one thing we ask your Honor to do is to see to it that those——

Mr. Goodwin: May I——

Presiding Inspector: Let him continue.

Mr. Grossman: (Continuing) ——is to see to it that efforts are continued to find Mr. Cannalunga. [3088]

We do know this: We know that Mr. Wixom asked the Portland Office to attempt to serve a subpoena on Mr. Cannalonga.

We know, from the report we got this morning, that they attempted to make this service at 10:30.

We do not know, and that is what we ask your Honor to see to it that it is done, we do not know that the Immigration and Naturalization Service is making any effort whatsoever to continue the search for Mr. Cannalonga. I think we have a right to expect that. We naturally cannot serve that subpoena. As has been made clear in conferences, we must expect the Immigration and Naturalization Service to do that. We would like your Honor to see to it, at least as far as you can which, I suppose, is by communicating with Mr. Wixom, that the Immigration and Naturalization Service use every effort to continue to try to serve that subpoena on Mr. Cannalonga. We have no right to assume it is being done because we don't know what their normal practice is when they have tried and failed.

The fact that the FBI may or may not be looking for Mr. Cannalonga, according to their statement, doesn't answer the question because, as I understand it, the Immigration and Naturalization Service is supposed to subpoena him.

The second thing—I know we have no right to expect it, but I think your Honor should be interested in it—we would like to have an answer as to whether the FBI at this time knows [3089] the whereabouts of Mr. Cannalonga, or whether

they have had him in custody since yesterday morning at any time.

Presiding Inspector: I asked Mr. Wixon's assistant, or associate—I have forgotten his name—of that fact, and he said the report was from the FBI that they had not, and, as I understood it, they hadn't been able to furnish any information which would help Mr. Wixon. That is as I understood it.

I will talk with him again if you wish.

Mr. Grossman: Don't you think, your Honor

Presiding Inspector: I think they should make every effort to locate him and I have no doubt but what they are.

Mr. Grossman: I think we are entitled to two things: One, as I stated, in substance ~~the~~ Mr. Wixon, through his office, to continue to search for Mr. Cannalonga and—

Presiding Inspector: Yes. I think that was implied, if not stated, in the conversation that I had with his associate.

Mr. Grossman: Second, don't you think—the answer may be "No"—we are entitled to know whether, at any time since yesterday morning, the FBI has had Mr. Cannalonga in custody?

We haven't had this question answered. I think we are entitled to an answer. It will clear up a lot of confusion if we have that answer.

Presiding Inspector: I didn't ask that directly of Mr. Wixon.

Mr. Grossman: Mr. Wixon is not the FBI; that is why I raise the question. [3090]

Mr. Del Guercio: I resent that implication, because I understand why counsel would have so little faith in the sworn officers of his Government—I assume it is his Government. There is a presumption of official regularity. There has been everywhere, except here in this proceeding, and by these officers here. We resent the implication and we repeat that it is—

Mr. Gladstein: (Interposing) If your Honor please, is that the answer to the question, Mr. Del Guercio, as to whether you are—

Mr. Del Guercio: (Interposing) Address the Court.

Mr. Gladstein: I am speaking through the Court. We are asking the question. We are all interested in having Mr. Cannalunga take that stand and tell the whole truth. We are asking a question but we are not making any implications of any kind: Does the FBI now know whether it has had in its custody at any time since yesterday morning, or whether it knows the present whereabouts of Mr. Cannalunga?

Can't a clear answer to that be given, "Yes" or "No"?

If the answer is "Yes," that they have had him in custody, or do know his whereabouts, then why all the business of the Immigration Service here and the FBI there?

We are looking for Mr. Cannalunga. Can't we have an answer to the question as to whether or

not the FBI has him in custody or knows where he is? [3091]

Presiding Inspector: I assume that Mr. Wixon has issued orders to subpoena him. He says so. You have talked with him as well as I. His associate told me, as I recall it, that he didn't get any information from the FBI office in Portland, I suppose it was, which was of any assistance to him in locating Mr. Cannalonga.

I didn't have a conversation with Mr. Wixon himself. I will have a conversation with him.

Mr. Goodwin: Your Honor, I want to say just one word and have it interjected here.

The sincerity of counsel for the Alien as to having Mr. Cannalonga produced here to testify, sincerity of this desire is not borne out by their conduct. They were in contact with him at least as early as Saturday. They made no disclosure of the fact that they were in contact with him, or had interviewed him, or knew where he was until Tuesday morning. Had they desired to have him produced here to give testimony before you they would have at least notified you before Tuesday morning.

That is all I want to say.

Mr. Gladstein: In view of the last remarks of Judge Goodwin I do not think the record should stand as it is without some reply, because there are implications.

The sincerity of our desire to have Mr. Cannalonga here has been raised, put in question, by Judge Goodwin's remarks.

When I talked to Mr. Cannalonga, and when he spoke to Mr. [3092] Craycraft in my presence, I asked him to come down and testify and tell the whole truth. He told me then—I am saying this in response to the remark made by Judge Goodwin and I realize this is not evidence, but I am saying it as an officer of the Court in response to an accusation—he told me then he was in terror of the FBI. He was afraid of being railroaded——

Mr. Goodwin: (Interposing) He isn't half as much in the fear of the FBI as he is of your people, and you know that very well.

Mr. Gladstein: Are you addressing those remarks to me?

Mr. Goodwin: Yes.

Mr. Gladstein: I will answer it—that is untrue and you know it.

Presiding Inspector: Let's have order here. Go ahead.

Mr. Gladstein: Mr. Cannalonga had facing him a threat of twenty years imprisonment in the Federal penitentiary on a charge of violating the Mann Act. He told us, told Mr. Craycraft, and I will state as an officer of the Court, if Mr. Craycraft is permitted to testify, he will so testify, because it was in my presence that I heard these remarks, that he said that he told the FBI officers that he knew nothing about, or against Harry Bridges, and the way they obtained those statements from him was that they began to tell him about a certain girl that he had met in Reno about a year ago, and they told him all the facts concerning that; and he

told us that they had him cold, [3093] and they threatened him with prosecution under the Mann Act unless he signed a prepared statement for them.

He made these statements and there is a witness who will so testify.

That is on the question of the sincerity of our efforts.

We asked him to come down and tell the truth.

Is it any wonder that a man facing that kind of a situation would demur at coming down and testifying? Is there any wonder at that?

Therefore, all we could do was attempt to obtain a statement before a Notary Public, and it went as far as it did, and then Cannalonga left the office where the deposition was being taken. And then when we attempted to produce our proof your Honor made a ruling and, in accordance with that ruling, it became necessary for us to ask for a subpoena.

[3094]

Presiding Inspector: I don't think that any part of this discussion is in order. Any part. We haven't yet failed to get Mr. Cannalonga. This hearing is still in session. These statements, these accusations, these charges one way and the other are entirely immaterial in this case, and I think it would be better if they weren't made.

Mr. Del-Guercio: Out of respect for the Court I will not brand counsel's statements for what I really think they are.

Presiding Inspector: I wouldn't go any further.

Call your next witness. I will speak to Mr. Wixon.

Mr. Grossman: Just a moment, your Honor. He is down the hall.

Presiding Inspector: We will take a short recess and I will call Mr. Wixom.

(Whereupon a short recess was taken.)

Presiding Inspector: We have had a lot of talk here. Of course, what has been said by counsel on either side is not evidence and it is only interesting in respect to obtaining witnesses to advance this hearing. No conclusion pertinent to this proceeding can be drawn from a statement, accusations or words of any kind coming from counsel because they are not under oath and they say a great many things which are not pertinent to this hearing. This hearing is going to continue the taking of evidence, and the advice which the Presiding Examiner may give to the proper officials in Washington [3095] will be based upon the evidence.

I am sorry that passions rise, but we are all human beings. It is hard to conduct a case where persons are vitally interested without sometimes exceeding the bounds of what would be Court propriety. I say this to both sides.

Now, so far as the subpoena is concerned, at your request—I think it was your request, Mr. Gladstein and Mr. Grossman—I telephoned Mr. Wixom's office, Mr. Wixom being the District Director, and could not reach Mr. Wixom. I then talked with his assistant. He said that his information had been received from Norcross—is that his name?

Mr. Gladstein: Norene, I think it is.

Presiding Inspector: (Continuing) —Norene, the head of the Immigration and Naturalization Department in Portland; that he had a telegram or a message—I think it was first a telegram and then a message, telephone, I suppose—that the FBI did not know of the whereabouts of Mr. Cannalunga.

I asked Mr. Walsh to communicate with Mr. Norene, to redouble his efforts to find Mr. Cannalunga and to communicate with the Seattle office; that Mr. Norene should communicate with the Seattle office. And he advised me that he would do so and that he would instruct or ask the other offices; that is, the office in Portland, to redouble their efforts to find and serve the subpoena upon Mr. Cannalunga. Now, that is what you asked me to do and I have done it as far as I under- [3096] stood, and if there is anything else you wish to request me to do—

Mr. Grossman: (Interposing) That is all, your Honor.

Presiding Inspector: (Continuing) —within due limits, I will do that.

Mr. Grossman: Thank you.

Presiding Inspector: You were there when part of the conversation took place, and I don't know whether you were there, Mr. Del Guercio, when this conversation took place.

Mr. Del Guercio: Sir?

Presiding Inspector: You were there when I was talking to Mr. Walsh?

Mr. Del Guercio: Yes, your Honor.

Presiding Inspector: I have tried to tell what Mr. Walsh told me.

Mr. Del Guercio: That is right.

Presiding Inspector: Just as simply as I could.

Now, you may go on. [3097]

Mr. Del Guercio: If the Court please, there is one more request I would like to make—a request. Inasmuch as the record shows an accusation has been made to the effect that the FBI is hiding this man out we would like the record to show that we deny that.

Presiding Inspector: That is not evidence and it will be considered by the Inspector as coming from the mouth of counsel.

Mr. Del Guercio: We want the record to show that the FBI has said that they never have had custody of this man, and have never seen the man since.

Presiding Inspector: You may make that statement now.

Mr. Del Guercio: I make that statement now.

Presiding Inspector: Very well.

That also is not proof, but it is in reply to a question which they asked you to answer. It is very proper for you to answer it. It isn't evidence any more than the accusation.

Mr. Del Guercio: Neither the FBI men, or any officer of the United States, as far as I know.

Presiding Inspector: Very well.

Mr. Grossman: Are you ready to go ahead?

Presiding Inspector: Yes.

Mr. Grossman: Take the stand, Mr. Imper.

Presiding Inspector: Raise your right hand.

[3098]

THOMAS IMPER

called as a witness on behalf of the Alien, having been first duly sworn, testified as follows:

Presiding Inspector: Give your name to the reporter.

The Witness: Thomas Imper—I-m-p-e-r.

Direct Examination

By Mr. Grossman:

Q. Speak louder, Mr. Imper; so all counsel can hear you. A. Yes.

Q. What is your address?

A. 514 Northeast Morris, Portland, Oregon.

Mr. Del Guercio: I didn't get the address.

The Witness: 514 Northeast Morris, Portland, Oregon.

By Mr. Grossman:

Q. Where are you employed at the present time, Mr. Imper?

A. Oregon State Department of Geology and Mineral Industries.

Q. Is that a temporary or a permanent job?

A. Temporary.

Q. Prior to this job where were you employed?

A. I was employed by the Historical Records Survey Project of the Works Progress Administration in the Elks Temple at Portland.

(Testimony of Thomas Imper.)

Q. For how long a period were you employed by that [3099] Project?

A. Two and one-half years.

Q. At the time you left the Project what position did you hold with it?

A. I was Department Supervisor.

Q. Of which department?

A. Of the Manuscript, Imprints and Photographs.

Q. Do you know a man named Robert Wilmot?

A. Yes.

Q. About how long have you known him?

A. Since I first was employed on the Historical Records Survey—it would be a little over two and one-half years.

Q. Was he employed on that survey at the time you first became employed on it?

A. He was employed by the Writers' Project, which was combined, had the same supervisor and director; the same officers at the time.

Q. How did you happen to meet Mr. Wilmot?

A. The officers of the two projects being closely together, I naturally met him that way; and also through the Federal Cultural and Professional Workers Union, which he belonged to and which I joined.

Q. What time did you belong to this union when he also belonged?

A. Approximately a year; from October 1938 to approxi- [3100] mately the same month in 1939, when the union was stopped, ended.

(Testimony of Thomas Imper.)

Q. Can you estimate about how often you saw him in connection with your joint membership in that union? A. Possibly once a week.

Q. Do you belong to any other organizations to which he belongs? A. No.

Q. Did either of you belong to, rather, did either of you hold any office in this Union?

A. I held the office of Job Steward, and Mr. Wilmot was on the Executive Board, and also a member of the Grievance Committee.

Q. How long have you lived in Portland?

A. Five years.

Q. Do you know many people who also know Robert Wilmot?

A. Yes; all those employed on the Historical Records Survey and the Writers' Project.

Q. Have you talked to many people about Robert Wilmot during the last two or three years?

A. Yes; a great many.

Q. Have there been any special events, or circumstances, that were responsible for you and any of these people talking about Robert Wilmot? In other words, was there anything special that brought this topic of conversation up? [3101]

A. Yes.

Mr. Del Guercio: Just a minute. I object to that, your Honer.

Presiding Inspector: I didn't hear the question.

Mr. Grossman: Read the question, please.

(The question referred to was read by the reporter as above recorded.)

(Testimony of Thomas Imper.)

Mr. Del Guercio: If it could be limited to a "Yes" or "No" answer.

Presiding Inspector: Yes. "Yes" or "No"—that is all it asks for.

Mr. Grossman: Yes.

Mr. Gladstein: I think that is all it calls for.

A. Yes. [3102]

By Mr. Grossman:

Q. Now, will you state these various circumstances or special events that brought up in conversation between you and various people the name of Robert Wilmot?

Mr. Del Guercio: Just a moment! I object to that, your Honor.

Presiding Inspector: Of course, that might be proper and might not, depending on what the answer is. You can't go into special circumstances and show any—I suppose this is—

Mr. Grossman: (Interposing) This is admissible only to show his ability to know the reputation, not to show the truth of any of the circumstances that may be involved.

Presiding Inspector: Isn't it sufficient in the first instance to show that he knew his reputation among the people with whom he associated? They were both in the same Project.

Mr. Grossman: Well, it seems to me that there are degrees of testimony along this line. I should think knowing—

Presiding Inspector: (Interposing) If he is

(Testimony of Thomas Imper.)

going to give incidents relating to Wilmot, then you have a special matter which would be incompetent.

Mr. Grossman: All right, I will avoid the possibility of that.

Presiding Inspector: You wanted to show that it was after some certain meeting that this occurred or that it was [3103] after the publication of some article in a newspaper or after a political campaign or anything of that kind so as to show the occasion, that I will receive.

We will take a short recess.

Mr. Gladstein, you are wanted on the long distance telephone.

Mr. Grossman: I think we can proceed, your Honor, if it is agreeable with you, in the absence of Mr. Gladstein.

Mr. Gladstein: Yes, it is all right.

Presiding Inspector: Then we will go right ahead.

By Mr. Grossman:

Q. On the basis of discussions you have had with various people concerning Robert Wilmot do you know his general reputation in the City of Portland and among those people who work with him for truth and veracity?

Mr. Del Guercio: Just a minute! I object to that, if your Honor please. This witness has not testified that he has known Wilmot other than among his fellow workers.

Presiding Inspector: I will take it. You may,

(Testimony of Thomas Imper.)

when you come to cross examine, confine it, if you can. He says he does know his reputation.

Do you know his reputation among the people with whom you work?

The Witness: Yes.

By Mr. Grossman: [3104]

Q. Is that reputation of Robert Wilmot for truth and veracity good or bad? A. Bad.

Q. On the basis of what you have heard or what you know about the general reputation of Robert Wilmot for truth and veracity would you believe him under oath? A. No.

Mr. Grossman: That is all.

Presiding Inspector: You may cross examine.

Cross Examination

By Mr. Del Guercio:

Q. Where were you born, Mr. Imper?

A. Salem, Oregon.

Q. What? A. Salem, Oregon.

Q. You say you have been on the Workers' Writers' Project; is that correct?

A. The Oregon Historical Records Survey.

Q. That is a WPA Project, is it not?

A. That's right.

Q. How long have you been on such a project?

A. I was employed there for two and a half years.

Q. Were you a reliefer? A. No.

Q. How did you get on this project? [3105]

A. I was employed to assist with the Manuscripts

(Testimony of Thomas Imper.)

and Imprints Department as a unit chairman or assistant unit chairman.

Q. By whom? A. By whom?

Q. Yes. A. Miss Margaret Clark.

Q. Miss Margaret Clark: Well, that is sort of a relief job, isn't it? A. No.

Q. Well, what kind of a relief job is it?

A. There are two types of jobs: One is a relief, and one is non-relief.

Q. How much a month do you make?

A. \$89.70.

Q. How much? A. \$89.70.

Q. Are you married? A. No.

Q. Were you certified for relief before you obtained this job? A. No.

Q. Huh? A. No.

Q. Have you ever held any other position prior to that [3106] time? A. Yes.

Q. Where?

A. Directly previous to that I was employed by the Samover Cafe.

Q. What is that?

A. Directly previous to that I was employed by the Samover Cafe.

Q. Doing what? A. As a chef.

Q. As a chef? A. Yes.

Q. For how long a period of time were you employed as a chef in that capacity?

A. A year, approximately.

Q. Now, as a chef what salary were you receiving?

(Testimony of Thomas Imper.)

A. I was receiving \$75.00 a month and my board.

Q. \$75.00 a month and your board. How old are you? A. Twenty-three.

Q. Twenty-three. And what were you doing before that?

A. I was employed for a while as salesman by Remington-Rand Typewriter Company.

Q. And for how long a period?

A. Approximately eight months.

Q. At what salary? [3107]

A. No salary. It was commission.

Q. No salary? A. Commission.

Q. Why did you leave that job?

A. I wasn't a very good salesman.

Q. You weren't a very good salesman. Why did you leave your job as a chef?

A. I was interested in the office work in preference to kitchen work.

Q. Had you ever done any office work prior to that time? A. Yes.

Q. Where?

A. I was employed by Steckmest & McDowell Marine Supplies.

Q. Where? A. In Portland.

Q. When with respect to your employment as a salesman with the Remington-Rand Typewriter Company? A. I beg your pardon?

Q. When with respect to your employment with the—

A. (Interposing) Previous to that.

Q. Previous to that? A. Yes.

(Testimony of Thomas Imper.)

Q. For how long a period? [3108]

A. Three or four months.

Q. Three or four months? A. Yes.

Q. And is that the only office work you did?

A. I believe that is the first office job that I had at all. I had been going to school taking professional accounting.

Q. Did you graduate? A. No, I didn't.

Q. How can you tell when a person is lying, Mr. Imper? A. By finding out the truth.

Q. How do you find out the truth?

A. It would depend on the particular instance, I would imagine.

Q. Well, how would you go about finding out the truth in any instance?

A. I would have to have a specific case to know.

Q. Well, a man makes a statement to you, a certain statement, that you believe is not true. How would you go about finding out whether or not it was true? A. Well,—

Q. Before you would brand it as a lie?

A. I would. If I were interested in finding out whether it were the truth or not I would very probably investigate [3109] the subject of which he spoke.

Q. Make your own investigation? A. Yes.

Q. Huh? A. Yes.

Q. And how would you go about investigating it?

A. Well, as I say, it would depend entirely upon what the subject was the manner in which I conducted the investigation.

(Testimony of Thomas Imper.)

Q. Have you ever conducted any investigation?

A. Of that type, yes.

Q. Under what circumstances?

A. I don't recall any specific instances.

Q. Well now, you just said that you conducted an investigation of that type and now you say you don't recollect any specific instance. Which is true?

Mr. Grossman: Now, just a moment, your Honor! If I understood that correctly, the question assumes something not in evidence, which is that those two are inconsistent. The failure to recollect a specific occasion is not inconsistent with a statement that such an occasion did exist.

Presiding Inspector: I don't think it is.

Mr. Del Guercio: He recalls that he made an investigation and then he says he can't recall having made any. [3110]

Mr. Grossman: He didn't say he couldn't recall any.

Presiding Inspector: They are not necessarily inconsistent. You may recall, I suppose, that you have traveled on a train, but you may not recall the particular time that you traveled on it.

Mr. Del Guercio: I wasn't trying to place it as to time.

By Mr. Del Guercio:

Q. I will ask you again. Have you ever made an investigation to determine the truth or falsity of any statement that you may have heard?

A. Yes, I have.

(Testimony of Thomas Imper.)

Q. All right. Give me one instance.

A. Well, my work on the Historical Records Survey was made up of doing exactly that type of work. If a report came in to me that certain people had certain manuscripts it was my job to make lists of the depositories of manuscripts of value, and if someone told me that that person had a manuscript of value I wouldn't make a list using that person's name in there, giving that as an instance. I would go out to that person in that depository and find out and see for myself.

Q. You would go out to the person that made the statement that he had the book?

A. I would go out to the person who was supposed to own the manuscript.

Q. What would you ask him? [3111]

A. Ask him if he owned one, that particular manuscript.

Q. Would you go to any other source?

A. That wouldn't be necessary.

Q. You would only go to the person who made the statement that he had that manuscript?

A. I would go to the person who was supposed to own the manuscript.

Q. And what would you say to him?

A. Ask them if he owned that manuscript.

Q. Is that all?

A. It would depend on their answer.

Q. Supposing they said "Yes", they owned it. What would you do?

A. I would ask him if I could see it.

(Testimony of Thomas Imper.)

Q. And would you be able to tell the original manuscript from that?

A. In most instances, yes.

Q. Now, did you ever have any occasion to investigate any remark that Mr. Wilmot had made?

A. No. I don't recall of ever having done that.

Q. You never investigated any kind of a remark that Mr. Wilmot made to you at any time?

A. I don't recall any.

Q. I am asking you for your best recollection.

[3112]

A. All I can say is that I don't recall having done that.

Q. Would you say that you had?

A. As a definite statement, no.

Q. How many people were employed on this Writers' Project?

A. I believe during the time that I was employed there, approximately 60.

Q. Approximately 60. Did you know them all?

A. Most all of them, yes.

Q. Did you ever visit Mr. Wilmot at his home?

A. No.

Q. Do you know if he is married?

A. Yes, he is married.

Q. Did you ever meet his wife?

A. No, I haven't.

Q. You never visited him socially, did you?

A. No, I didn't.

Q. You don't know him socially? A. No.

Q. And do you know if he has any children?

(Testimony of Thomas Imper.)

A. I beg your pardon?

Q. Do you know if he has any children?

A. He has, I believe, three children.

Q. Who told you that? [3113]

A. Oh, possibly ten or fifteen different people.

Q. Did Mr. Wilmot ever tell you?

A. No.

Q. Do you know where he lives in Portland?

A. I don't know his address now, no. I don't think I ever did know his home address.

Q. You never did know where he lives?

A. No.

Q. Where do you live? Well,— Do you know any people who live in the same community that Mr. Wilmot lived in?

Mr. Grossman: Just a minute! I think the word "community" is ambiguous as to require definition. Sometimes it is used as meaning a city and sometimes a portion of a city.

Presiding Inspector: Yes, that is true. You can ask him to qualify it. I will allow it.

By Mr. Del Guercio:

Q. Do you know of anybody that lived within the immediate vicinity of Mr. Wilmot?

A. I don't believe that I do. [3114]

Q. Do you know what Mr. Wilmot's neighbors think of Mr. Wilmot?

A. No, I don't know what his neighbors think.

Q. Did you ever make any inquiries along those lines? A. No.

(Testimony of Thomas Imper.)

Q. Did you ever make any inquiries of anyone regarding Mr. Wilmot's veracity? A. No.

Q. You never did? A. No.

Q. That is your own opinion only, that his reputation is bad?

Mr. Grossman: That is not a correct statement of the evidence.

Mr. Del Guercio: He said he never asked.

Presiding Inspector: But he says he knows what people have said.

By Mr. Del Guercio:

Q. Has anyone ever told you that Mr. Wilmot's reputation for truth and veracity was bad?

A. Yes.

Q. Who told you that?

A. Do you want names?

Q. Yes, names; of course.

A. All right. Ralph Collett—C-o-l-l-e-t-t.

Q. C-o-l-l-e-t? [3115] A. —e-t-t.

Q. Now, you understand I asked you if anyone has ever told you that Mr. Wilmot's reputation for truth and veracity was bad? A. Yes.

Q. And you say that Ralph Collett told you that?

A. Yes.

Q. In what words?

A. The occasion was rather unusual in Mr. Collett's case.

Q. I am asking you in what way, in what words did Mr. Collett say that. What words did he use in saying his reputation for truth and veracity was bad?

(Testimony of Thomas Imper.)

A. He said that Mr. Wilmot was to be admired because of the life that he had led which had made it possible for him to get out of more scrapes by his ability to lie out of them, and talk his way out of his bad scrapes that he got himself into.

Q. Out of his own bad scrapes? A. Right.

Q. And from that you drew the conclusion that Mr. Collett told you that Mr. Wilmot's reputation for truth and veracity was bad?

A. No, not from that alone.

Q. What else did Mr. Collett say? Before I ask you [3116] that—when did this conversation with Mr. Collett take place?

A. Well, about the nearest that I could place that would be somewhere in the vicinity of February or March of 1939.

Q. February or March, 1939. Where did this occur?

A. In the office, my office at the Elks Temple.

Q. Office, where? A. At the Elks Temple.

Q. Office at the Elks Temple?

A. That is the Historical Records Survey offices.

Q. Was anyone else present besides you and Mr. Collett?

A. I don't recall whether there was or not.

Q. What? A. I don't remember.

Q. What does Mr. Collett do?

A. I believe he works now for the State Highway Department.

Q. State Highway Department. Where?

A. In Salein.

(Testimony of Thomas Imper.)

Q. Salem, Oregon? A. Right.

Q. What is Mr. Collett's reputation for truth and honesty, do you know, and veracity?

A. (Pause).

Q. Can't you answer that? [3117]

A. Yes, I can.

Q. What is it?

A. Well, it is fairly good, I believe.

Q. Fairly good? You are qualifying it. It isn't good, but it is just fairly good?

A. It is as good as the average person's, I would say.

Q. And what is the average person, the average—you mean they might lie sometimes and at other times might not lie?

A. Yes. I believe the average person——

Q. (Interposing) Oh, you——

A. (Continuing) Mr. Collett is, when saying he is average, I mean he is much more to be believed than Mr. Wilmot.

Q. You mean by that that he may lie sometimes?

A. I don't doubt but what he has.

Q. Have you ever lied?

A. I think that I have.

Q. On how many occasions?

A. You say on how many occasions?

Q. Yes.

A. That would be impossible to try to think.

Q. You have lied that many times so that it is impossible for you to tell?

(Testimony of Thomas Imper.)

A. I don't keep a notebook and put down every time I lied.

Q. Have you ever lied under oath?

A. No, I haven't. [3118]

Q. What? A. No.

Q. Are you lying now under oath? A. No.

Q. Did you *talk anybody* else—did anyone else, rather, tell you that Mr. Wilmot's reputation for truth and veracity was bad other than Mr. Collett?

A. Yes.

Q. Who? A. Miss Margaret Clarke.

Q. Miss Margaret Clark—C-l-a-r-k?

A. No; C-l-a-r-k-e.

Q. Where does she live?

A. Where does she live?

Q. Yes.

A. In Portland. I don't know her exact address.

Q. Is she employed?

A. She is the Assistant State Director of the Oregon Historical Records Survey.

Q. And what did she say to you regarding Mr. Wilmot's reputation for truth and veracity?

A. I don't recall the exact words; but merely a great number of conversations where Mr. Wilmot was discussed and remarks were made that he couldn't be depended upon, or couldn't be believed.

[3319]

Q. Did Miss Margaret Clarke, in your presence, ever say that Mr. Wilmot could never be believed?

A. Yes.

(Testimony of Thomas Imper.)

Q. She did say that? A. Yes.

Q. Who else was present?

A. Oh, I don't recall. It has probably been made at numerous instances and various people were there.

Q. Now, when was this, when did this occur, when did you talk to Miss Clark about Mr. Wilmot's reputation?

A. As I said, at various times she and I happened to be together and were talking of such things, or other people were talking of these things, and I happened to be there and his name was mentioned.

Q. Were you in the group discussing this or were you just eavesdropping?

A. I was in the group.

Q. You were in the group? A. Yes, sir.

Q. You couldn't place the time when this was said? A. No.

Q. But you do recall distinctly that Miss Clarke dropped the remark that Mr. Wilmot could not be depended upon? A. Yes.

Q. You are sure of that?

A. Yes; positive. [3120]

Q. Anyone else? A. Ralph Sherrif.

The Reporter: Spell it, please.

The Witness: S-h-e-r-r-i-f.

By Mr. Del Guercio:

Q. S-h-e——

A. (Interposing) ——r-r-i-f.

Q. Is he also employed on this project?

(Testimony of Thomas Imper.)

A. He is employed on the Writers' Project.

Q. Employed on the Writers' Project?

A. Yes, sir.

Q. What did he say?

A. Words along the same line.

Q. Along what same line?

A. Mr. Wilmot couldn't be depended upon, or he couldn't be believed.

Q. Did you ask Mr. Sherrif about that, or did he just say that?

A. It came up in general conversation.

Q. Did you ever ask anybody—I believe you already testified that you never asked anybody outright as to Mr. Wilmot's reputation for truth and veracity?

A. It never was necessary. My personal relationship with Mr. Wilmot was such that I wasn't interested in investigating. [3121]

Q. What was your personal relationship with Mr. Wilmot?

A. I had none.

Q. You had none?

A. No.

Q. Did he ever lie to you?

A. I don't know whether he did or not.

Q. And yet you testify under oath that you wouldn't believe him under oath?

A. That is right.

Q. Huh?

A. That is right.

Q. And he never has lied to you?

A. I didn't say that he hadn't; I said that I didn't know whether he has or not.

Q. Do you know if he has lied to you?

(Testimony of Thomas Imper.)

Presiding Inspector: He said he doesn't know.

A. I don't know.

Mr. Gladstein: Moreover, if I may interject to say this, your Honor, the witness' testimony, as I understand it—

Mr. Myron: (Interposing) I don't think this is an objection to the question.

Mr. Gladstein: I have a right to make my statement of position. The witness' testimony, this kind of testimony generally, is that the witness is confined to the statement that he would or would not believe a man under oath, based on [3122] that reputation.

Presiding Inspector: Certainly, but they have a right to cross examine.

Mr. Gladstein: Yes, but they don't have a right to misstate the testimony.

Presiding Inspector: No. I don't think he has any such intention. I didn't grasp it. Go on.

By Mr. Del Guercio:

Q. Do you know Kenneth Fitzgerald?

A. Yes.

Q. What is his position in connection with this Writers' Project?

A. He has no connection with it whatever now.

Q. Did he have at the time Mr. Wilmot was employed there?

A. Not with the Writers' Project. He was employed by the Historical Records Survey.

Q. How well did you know Kenneth Fitzgerald?

A. In the past year I have known him quite well.

(Testimony of Thomas Imper.)

Q. Did you ever talk to Fitzgerald about Mr. Wilmot's reputation for truth and veracity?

A. Yes.

Q. What did Mr. Fitzgerald say?

A. He has the same opinion.

Q. That it was bad? A. Yes. [3123]

Q. You know, of course, that Kenneth Fitzgerald is a member of the Communist Party, don't you? A. No.

Q. What? A. No.

Q. You don't know that? A. No.

Q. Have you ever asked him?

A. No, I never.

Q. Are you a member of the Communist Party?

A. No.

Q. What?

Presiding Inspector: He said "No". Speak up so we can hear you.

By Mr. Del Guercio:

Q. Did you know that Mr. Wilmot was a member of the Communist Party? A. No.

Q. Did he ever tell you that he was?

A. No.

Q. Did he ever tell you he wasn't? A. No.

Q. How long have you been up around—you have lived in Portland all your life, have you?

A. I have lived in Portland five years. I have lived in Oregon all my life. [3124]

Q. Didn't you know that Kenneth Fitzgerald

(Testimony of Thomas Imper.)

was a candidate for public office on the Communist Ticket?

A. I have heard that; yes.

Q. Then you did know that?

A. I have heard it. I suppose that I do know it, yes.

Q. Well, would you, from that knowledge, infer that he was a member of the Communist Party?

A. No, not necessarily.

Q. Do you know W. P. Ayer? A. No.

Q. Did you ever hear of that name at any time?

A. Probably; I don't recall.

Q. Do you connect that name with anyone that you know? A. No.

Q. Have you ever been a member of the Newspaper Guild? A. No.

Q. Do you know if Mr. Wilmot has?

A. No, I don't know that he has.

Q. Do you know of anyone on this Writers' Project that you and Mr. Wilmot were employed on as being a member of the Communist Party?

A. No, sir.

Q. Did you ever make any inquiries along that line? A. No.

Q. Were you interested in making any inquiries along that line? [3125] A. No.

Q. Why not?

A. It didn't make any difference to me.

Q. You mean it doesn't make any difference to

(Testimony of Thomas Imper.)

you if a member of the Communist Party is employed on a Government project? A. No.

Q. What is your feeling toward the Communist Party, Mr. Imper?

A. Well, I know too little about it to have very many feelings.

Q. What?

A. I know too little about it to have very many feelings toward it.

Q. Do you admire a person for being a member of the Communist Party? A. No.

Q. What? A. No.

Q. Have you ever read any Communistic literature? A. Yes.

Q. Did Mr. Fitzgerald ever suggest to you that you read Communist literature? A. No.

Q. Did he ever furnish you with any Communist publications? [3126] A. No.

Q. Or pamphlets to read? A. No.

Q. At any time? A. No.

Q. Where did you read the Communist literature you said you read—where did you get it?

A. Well, from somewhere I received a copy of, I can't think of the name, "Soviet Masses," or something like that.

Q. Is that the only piece of literature you have read, Communist literature?

A. No. I was going to say that I haven't read it yet.

Q. You still have that?

(Testimony of Thomas Imper.)

A. I think so; I am not sure.

Q. You purchased it recently?

A. I didn't purchase it.

Q. It was given to you?

A. Yes; I received it in the mail.

Q. Do you know who sent it to you?

A. No. And I have seen a copy of People's World.

Q. Where have you seen copies of the People's World? A. (Pause)

Q. Well, I will withdraw that.

A. I don't recall where I saw it.

Q. You can't tell. All right. Were you ever asked by [3127] anyone to join the Communist Party? A. No.

Q. At no time? A. No.

Q. Did you ever attend any Communist Party meetings? A. No.

Q. At any time? A. No; never.

Q. Have you ever been called upon to give your opinion as to the truth or veracity of any other person other than Robert Wilmot? A. No.

Q. You have never been called before as a character witness, have you—or, I mean, character assassinator, rather than a character witness?

Mr. Gladstein: Just a moment. That is—

Presiding Inspector: That is not quite proper.

Mr. Del Guercio: I will withdraw the remark as not proper.

(Testimony of Thomas Imper.)

Mr. Gladstein: If counsel wishes to stipulate, or infer, we will agree with him that the character of Mr.——

Mr. Del Guercio: (Interposing) I withdrew that remark and I don't think counsel's remark is necessary. I said it was improper.

Presiding Inspector: He feels so too. Let it go.

[3128]

Have you ever been called as a character witness, good or bad?

The Witness: No.

By Mr. Del Guercio:

Q. Have you ever been——

Presiding Inspector: Not as a good or bad witness; but as to good or bad character.

By Mr. Del Guercio:

Q. Have you ever been a witness in any case in court? A. No. [3129]

Q. Do you know what your own reputation for truth and honesty is?

A. Well, I have never been told that it was bad.

Q. Have you ever been told that it was good?

A. No. I don't think anyone has gone out of his way to tell me one way or the other.

Q. Mr. Imper, I believe you said that you were not a member of the Communist Party?

A. That's right.

Q. Were you ever a member of the Youth Congress? A. Of the what?

(Testimony of Thomas Imper.)

Q. Of the Youth Congress? A. No.

Q. You never were? A. No.

Q. Did you ever attend any meetings of the Youth Congress? A. No.

Q. Do you know Mrs. Joan Wood?

A. Yes. She also was employed on the Historical Records Survey.

Q. For how long a period?

A. I think she was employed about a year of the time that I was employed.

Q. And were you ever a leader in the local Portland [3130] Communist Youth Congress?

A. No.

Q. At any time? A. Never.

Q. Do you know Mrs.—Mr. Flora?

A. What's the name?

Q. F-l-o-r-a? A. No.

Q. Or F-l-e-r-a? A. No.

Q. Employed on the Writers' Project about the same time that you were? A. Mrs. Flora?

Q. Yes. Flora or Flera or some such similar name. A. Mrs. Flora? No, I don't.

Q. You don't? A. No.

Q. Did either Miss Wood, Mrs. Wood or Mrs. Joan ever tell you or did she ever say in your presence that practically all of the people employed on that Workers' Project were members of the Communist Party? A. No.

Q. Or Communist Party sympathizers?

A. No.

Q. Did you ever hear anyone say that? [3131]

(Testimony of Thomas Imper.)

A. I have read it in the papers. I have never heard anyone say that.

Q. You have read it in what papers?

A. In the Journal and the Oregonian.

Q. When? A. I don't recall.

Q. Well, how long with respect to the time about which we are talking? A. I haven't any idea.

Q. Did you ever belong to the Workers' Alliance?

A. The Federal Cultural and Professional Workers' Union was affiliated with the Workers' Alliance for a while.

Q. And you knew that the Workers' Alliance was a Communist-created organization, did you not?

A. No, I didn't.

Q. When did you find out that it was?

A. What?

Q. When did you find out that it was?

A. I never did know that it was.

Q. Well, would you say that it is not?

A. I would say that it isn't. A. Huh?

A. I would say that it isn't.

Q. On what do you base that knowledge?

A. Merely my impressions.

Q. Do you know who formed the Workers' Alliance? [3132] A. No.

Q. Did you ever find out? A. No.

Q. Did you ever try to find out?

A. No, I never.

Q. Did you ever ask anyone if it was a Communist organized and controlled organization?

A. No, I don't believe I did.

(Testimony of Thomas Imper.)

Q. Did anyone ever tell you or indicate to you that it was a Communist organization?

A. No, I don't think so.

Q. You don't think so. Well, by that do you mean that someone may have told you?

A. No. I am quite sure that no one ever told me that. I would remember if they had.

Q. Do you know what the American Peace Mobilization is?

A. No. I don't know any of their functions or what their purpose or anything is.

Q. Did you ever attend any of their meetings?

A. No.

Q. You have heard of the American League for Peace and Democracy? A. Probably.

Q. Have you ever attended any meeting? [3133]

A. No.

Q. Did you ever contribute any money?

A. No.

Q. To the American League for Peace and Democracy? A. No.

Q. At the time you were employed or received employment under this Writers' Project were you required to make an affidavit to the effect that you were not a member of the Communist Party?

A. Yes. There was an affidavit to that effect, I believe. I don't recall the wording of the affidavit, but it was to the nature that any political party similar to that—I believe they referred to the Bund and the Communist Party, both.

Q. And you made such an affidavit?

A. Yes.

(Testimony of Thomas Imper.)

Q. And what did you say in your affidavit in regard to whether you were a member of the Communist Party? A. I signed it.

Q. Well, did you say "Yes" or "No"?

A. I said that I wasn't a member of any of the parties.

Q. You said that you were not a member of the Communist Party? A. That's right.

Q. In this affidavit? A. That's right.

[3134]

Q. Who asked you to come down here to testify, Mr. Imper? A. I beg your pardon?

Q. Who asked you to come down here to testify? A. Mr. Burton Rodman?

Q. Mr. ? A. Mr. Burton Rodman.

Q. Rodman? A. Yes.

Q. How do you spell that?

A. R-o-d-m-a-n.

Q. R-o-d-m-a-n. And where does he live?

A. He lives in Portland. Let's see! On Grand Avenue. I don't know the number.

Q. Is he employed on this Writers' Project, too? A. No.

Q. Was he ever employed on that Writers' Project? A. No.

Q. Do you know him to be a member of the Communist Party? A. No.

Q. Do you know whether he is or not?

A. I assume that he isn't, but I don't know. I have no way of knowing.

Q. When did he approach you on this subject?

[3135]

(Testimony of Thomas Imper.)

A. It was the day before yesterday. It was suggested, and yesterday he called me.

Q. How long have you known Mr. Rodman?

A. I have known him for about two months.

Q. Is that all? A. Yes.

Q. Do you know him intimately? A. No.

Q. How long have you seen him during that two months period? A. How much?

Q. Yes.

A. Oh, probably seven or eight times?

Q. And for how long a period approximately each time in those seven or eight times during that two months period?

A. Oh, it probably would average about ten minutes.

Q. So that you have not seen more than seven times twenty is one hundred and forty minutes all together? A. Approximately.

Q. And did you just see him casually or pre-arranged meetings?

A. Most of them were casually, except once when he came up to ask me if I would take the job as CIO reporter.

Q. When did he ask you if you wanted to take a job as CIO reporter? [3136]

A. Sometime in March.

Q. In March of this year? A. Yes.

Q. Last March?

A. The month before last.

Q. And had you at that time told him what you knew about Wilmot?

(Testimony of Thomas Imper.)

A. Had I told him? No.

Q. Just what did he say about your wanting the job as CIO reporter?

A. Well, they needed a reporter and he asked me to go down to KWJJ and try out.

Q. This was in March? Was it in the latter part of March?

Q. The fore part. You testified that you have only know him for about two months. This is May now, about May 8th.

A. Possibly I have know him longer than that, then.

Q. You may have known him longer than two months?

A. I have known him since that time, whenever it was. I believe it was in the fore part of March.

Q. You have never seen him before the time he asked you if you wanted to accept the job as CIO reporter? A. No.

Q. Well, where did he meet you at the time he asked you [3137] if you wanted the job as CIO reporter?

A. I was introduced to him up on the Project.

Q. By whom? A. Kenneth Fitzgerald?

Q. Kenneth Fitzgerald? A. That's right.

Q. And what did Kenneth Fitzgerald say in introducing you to Rodman?

A. He merely told him that I had a good voice for radio speaking and he wanted someone, why not try me out.

(Testimony of Thomas Imper.)

Q. How many times had Kenneth Fitzgerald told you that, that you had a good voice?

A. Well, he has never told me that. He told Burton Rodman that.

Q. Has he told anyone else in your presence?

A. No.

Q. Has he said so recently? A. No.

Q. And so Kenneth Fitzgerald introduced you to Rodman and then Rodman asked you if you wanted a job with the CIO as a reporter for the CIO?

A. The CIO reporter is a radio program. It was.

Q. I see.

A. As an announcer, is what they wanted.

Q. Was anything said at that time about appearing in [3138] this Bridges case as a witness?

A. No.

Q. By either Mr. Fitzgerald or Rodman?

A. No.

Q. Hub? A. Nothing was said.

Q. Did you make application for the job as CIO announcer? A. Did I?

Q. Yes. A. No.

Q. You didn't go down there at all?

A. I went down there, yes. And I am sorry. I guess I misunderstood your question. I went to KWJJ Station, and had a try-out and was accepted and was told to come back that night.

Q. When did you go down there to KWJJ?

A. I don't remember the exact date.

(Testimony of Thomas Imper.)

Q. How long after this first conversation you had with Mr. Rodman and Mr. Fitzgerald?

A. It was the same day.

Q. The same day?

A. The same day. He was in very much of a hurry.

Q. He was very much what?

A. He needed someone that day. [3139]

Q. And you went down there that same day?

A. That's right.

Q. And you had a test? A. Yes.

Q. And what was the outcome of the test?

A. I was accepted.

Q. You were accepted? A. Yes.

Q. Well, what happened after that? Did you get the job?

A. I got the job all right, and the program went on at 9:15 and I got there at 9:15 and found that the program had been cancelled again. So—

Q. (Interposing) So you lost the job?

A. That's right.

Q. Well, then you never had the job actually, did you? A. No.

Q. Well, did Mr. Fitzgerald approach you or introduce you to anybody else to get you another job anywhere else at any time? A. No.

Q. Has he recently? A. No.

Q. Has anyone else given you any offer to work? [3140] A. No.

Q. You have had no offer since? A. No.

(Testimony of Thomas Imper.)

Q. When was the last time you talked to Mr. Kenneth Fitzgerald?

A. I believe I saw him yesterday.

Q. You saw him before you came down here to testify?

A. Yes.

Q. What did you talk about?

A. Well, let's see.

Q. Did you tell him you were coming down here to testify?

A. Uh-huh (affirmative).

Q. What did he say?

A. Well, he wished me a good trip.

Q. Is that all?

A. Oh, there was nothing of importance said. Very general.

Q. Let us determine whether it is important. You just tell us what was said.

A. I don't recall the words that were said.

Q. Well, what did you talk about?

A. He talked about the trip. He said that he envied me the airplane trip.

Q. Did he say he would like—you came down in an [3141] airplane?

A. That's right.

Q. Did he say that he would like to come down himself to testify?

A. No.

Q. Huh?

A. No.

Q. Did he express a desire to do so?

A. No.

Q. Did you discuss with Mr. Fitzgerald what your testimony was to be?

A. No.

(Testimony of Thomas Imper.)

Q. Didn't he know why you were coming down to testify? A. Yes.

Q. Who told him that? A. I did.

Q. What did you say?

A. I told him that I was going down to testify in the Bridges case because I knew Wilmot.

Q. And what did Mr. Fitzgerald say?

A. He said "Well, I guess you probably do know Wilmot all right."

Q. Did Mr. Fitzgerald say that he knew Wilmot also?

A. Well, he didn't have to say that. I knew that he [3142] did.

Q. Well, did you tell Mr. Fitzgerald that you were coming down to testify to the effect that Mr. Wilmot's reputation for truth and veracity was bad?

A. Possibly something to that effect. I told him that I was going to testify as to Wilmot's character which wouldn't show him in a very good light.

Q. Oh, you told him that? A. Yes.

Q. And what did Mr. Fitzgerald say?

A. I don't recall his answer.

Q. Well, do you know if he said something to the effect that he himself knew that Wilmot's character was no good?

A. No. I don't believe he said that. I am sure he didn't.

Q. Huh?

(Testimony of Thomas Imper.)

A. I am sure he ~~didn't~~ say that.

Q. When did Rodman last contact you—when did you last see Mr. Rodman?

A. Yesterday afternoon.

Q. Yesterday afternoon? After you had talked to Mr. Fitzgerald? After you had seen Mr. Fitzgerald or at the same time?

A. No, it was before. [3143]

Q. You saw Rodman first and then Mr. Fitzgerald? A. Yes.

Q. And what did you and Rodman talk about with reference to your coming down to testify?

A. Mr. Rodman and I didn't do much talking. Mr. Rodman introduced me to Mr. Margolis.

Q. Margolis? A. Margolis.

Q. An attorney? A. Yes.

Q. Did Mr. Margolis tell you who he was?

A. Yes.

Q. What did he say?

A. I believe he asked me for a statement, which he took down.

Q. Did he identify himself to you? Did he say who he was? A. He told me who he was.

Q. Who did he say he was?

A. He said he was Mr. Margolis of the firm—he named the firm.

Q. What name did he give?

A. Oh—I can't think of the first name in the firm.

(Testimony of Thomas Imper.)

Q. Is it the firm of Gladstein, Grossman and—

A. (Interposing) That's right. [3144]

Q. (Continuing) —Margolis?

A. That's right. And Sawyer. That's right.

Q. And Sawyer? A. That's right.

Q. And what did you say? Then, you say, he took a statement from you?

A. I beg your pardon?

Q. Then he took a statement from you?

A. Yes.

Q. A written statement? A. Yes.

Q. At that time? A. Yes.

Q. Was Mr. Rodman present during all the time? A. Yes.

Q. Was Mr. Fitzgerald? A. No.

Q. Are you sure? A. Yes.

Q. This occurred in the afternoon, you say?

A. Yes.

Q. How long after that did you see Mr. Fitzgerald?

A. Mr. Fitzgerald took me to meet the plane.

Q. Mr. Fitzgerald took you to the plane. Did he, [3145] Mr. Fitzgerald, also furnish you with the money to come down here? A. No.

Q. Who bought your transportation?

A. Mr. Margolis.

Q. Did you have any last-minute conversation with Mr. Fitzgerald? A. No.

Q. Huh? A. No.

(Testimony of Thomas Imper.)

Q. Was anything said at all about what you were to testify to? A. No.

Q. Huh? A. No.

Mr. Del Guercio: That is all, your Honor.

Presiding Inspector: Any further questions?

Mr. Grossman: Perhaps a few more questions.

Redirect Examination

By Mr. Grossman:

Q. In answer to Mr. Del Guercio's questions, you gave, I believe, two specific examples of people telling you about the character of Wilmot. Can you think of any other example that you could give? Could you give the details of any other [3146] situation in which someone told you what he believed was the character of Robert Wilmot?

A. I can't think so much of specific instances as I can of specific people.

Q. All right. Could you name any others?

A. Yes. A Wilma Leiter; Dorothy Muscott.

Mr. Del Guercio: Pardon me. I didn't get the first name.

Presiding Inspector: The reporter will give it to you.

The Reporter: Wilma.

By Mr. Grossman:

Q. About how many people would you say on various occasions have stated to you that the character of Robert Wilmot for truth and veracity is bad? A. Oh, I should judge 15 or 20.

Q. Do you remember any more specific statements given to you by any of these persons who

(Testimony of Thomas Imper.)

talked to you about Robert Wilmot's character, any more specific statement than that his character was bad, or truth and veracity?

Presiding Inspector: Other than you have given, Mr. Grossman means. Do you mean other than he has given.

Mr. Grossman: Other than he has given.

Mr. Del Guercio: Is this redirect?

Mr. Grossman: I think the opening up of those occasions on cross allows us to go into others on redirect. [3147]

Presiding Inspector: He can answer that.

Mr. Grossman: I beg your pardon?

Presiding Inspector: He can answer that.

Do you remember any other specific statement? Yes or No.

A. I would say, No, that I don't—any specific statements regarding his character. Nothing specific, I am sure.

By Mr. Grossman:

Q. Do you know how Robert Wilmot happened to leave his job, if he left it, or how the connection was severed between him and his job with the WPA?

Mr. Del Guercio: I object to that, if your Honor please, as not being proper redirect examination.

Presiding Inspector: I don't think that is proper. It is pure hearsay of a violent kind.

Mr. Grossman: I beg your pardon?

Presiding Inspector: It is pure hearsay of a violent kind.

(Testimony of Thomas Imper.)

Mr. Grossman: Well, he may know of his own knowledge.

Presiding Inspector: How could he know?

Mr. Grossman: Wilmot might have told him. If anyone else had anything to do with the severing, that person might have told him.

Presiding Inspector: Yes.

Mr. Grossman: Or he may have been present when it happened. [3148]

Presiding Inspector: If Mr. Wilmot told him or any other person in Mr. Wilmot's presence told him, I will take it.

Do you know from Wilmot himself how he lost his job?

The Witness: No. I never talked enough to Mr. Wilmot to hear anything regarding it.

Presiding Inspector: Yes.

Mr. Grossman: Can I ask him, your Honor, if he knows from any person who had something to do with the severing of the connection?

Presiding Inspector: Do you? I will allow it.

The Witness: I don't.

Mr. Del Guercio: I will object to that, if your Honor please.

Presiding Inspector: I will take it "Yes" or "No."

Do you know from anyone who had anything to do with it?

The Witness: No.

Mr. Grossman: That is all.

Presiding Inspector: That is all.

(Witness excused.)

(Testimony of Thomas Imper.)

Presiding Inspector: Next witness.

Mr. Gladstein: Your Honor, could we adjourn at this time and ask for a discussion in chambers?

Presiding Inspector: Yes. Two o'clock.

(Whereupon, at 12:00 o'clock noon, a recess was taken until 2:00 o'clock P.M. of the same day.) [3149]

After Recess

2:00 o'clock P.M.

Presiding Inspector: Now, Mr. Gladstein, call your next witness.

Mrs. King: If your Honor please, we have made a real effort to have a next witness this afternoon, but it has proved impossible. We had planned this week with at least Mr. Craycraft and character witnesses. We have been trying to reorganize our plans and, to an extent, we have been able to do so, but not satisfactorily. The result is that we have no witness this afternoon.

There is no use in pretending that there is something that we can work out.

We will have an opportunity to go over the record now and, perhaps, if there is any shortage of witnesses from now on we will have matter that can be produced. But at this time, unless your Honor wishes to hear from Mr. Craycraft, it is impossible for us to produce anyone this afternoon.

Presiding Inspector: I don't want to hear from Mr. Craycraft now.

Mr. Del Guercio: If the Court please, I understood the defense here was given, I don't know exactly——

Presiding Inspector: Quite a time.

Mr. Del Guercio: (Continuing) ——from last Tuesday, yes——

Presiding Inspector: That is true. [3150].

Mr. Del Guercio: (Continuing) ——for the purpose of getting the necessary witnesses.

Presiding Inspector: That is true. They should have been prepared.

Mr. Del Guercio: Don't you think there should be an end to this?

Presiding Inspector: What can I do?

Mr. Del Guercio: I wish I knew what to suggest. I don't want to prevent them from——

Presiding Inspector: Your wish is my wish. I wish I knew what I could suggest. I asked Mrs. King—she gave me some warning that they were out of witnesses. I asked her what she could suggest and she was as much at a loss as you and I are.

Mr. Del Guercio: Then it seems that we have come to that phase of the case where it appears they have no case.

Presiding Inspector: Well, that is an inference, perhaps, you might draw.

Mr. Grossman: To answer that——

Presiding Inspector: I don't think you will be found at fault in drawing that inference, Mr. Del Guercio:

Mr. Del Guercio: I think they have been given every indulgence.

Presiding Inspector: They should have been prepared to do all the things necessary to make a substantial presentation.[3151]

Mr. Grossman: As to Mr. Del Guercio's remark, that judgment can be withheld until the end of the case and then Mr. Del Guercio will see it is not correct.

For the reason I gave yesterday we have been physically unable to have our man interview them and get them down here available in time.

Presiding Inspector: I am very sorry about the subpoena not having reached Mr. Cannalonga. I am not assessing any blame, but I am sorry that that has occurred. That has thrown us off today undoubtedly.

Mr. Grossman: We have tried to readjust, as Mrs. King said, our plans, but there are certain things required to be done before we can get witnesses available, and we haven't been able to do it, not enough of them.

Presiding Inspector: Will you go on tomorrow?

Mr. Grossman: Yes, we can go on tomorrow.

Mr. Del Guercio: How long is this condition to obtain, if the Court please?

Presiding Inspector: I don't know, Mr. Del Guercio. I wish I did and I wish I could compel or enforce greater promptness. The only thing I could do would be to terminate the proceedings and say that they can't produce any more evidence, and I don't think that would be fair to the Alien.

Mr. Del Guercio: We don't want to be unfair.

We want to give them every opportunity to complete their case. [3152]

Presiding Inspector: You don't ask that. I understand that.

Mr. Del Guercio: No.

Presiding Inspector: You are acting properly in urging that everything be done to expedite the case.

Mr. Del Guercio: Expedite the case.

Presiding Inspector: And I join you in that. I join you in it wholeheartedly and I think you understand that.

Mrs. King: We do, your Honor, and we are very sorry indeed that this has occurred.

Presiding Inspector: Well now, do the best you can. I have got to just rely on you to do the best you can to present this case, and let us get it into my hands for an advisory action.

Mr. Grossman: Just one moment, if your Honor please.

Your Honor, we have been since your ruling on character evidence on Mr. Bridges considering or reconsidering the law on that question. We still feel that such evidence is admissible. Now, in order that the argument on that, which we wish to make, will not be extended over too long a period, because naturally counsel for the Government will have a right to reply, we would like to serve some kind of notice that we would like to argue that point tomorrow, so that the Government can be as well prepared as possible.

Presiding Inspector: Very well. You may do that. [3153]

Mr. Grossman: And we will be prepared tomorrow morning to make an argument, so that we will have enough time to prepare for the future.

Presiding Inspector: I will hear you tomorrow.

Mr. Del Guercio: I thought tomorrow they were going to produce a witness.

Presiding Inspector: They are.

Mr. Del Guercio: If they start an argument on it—

Presiding Inspector: (Interposing) I can't believe that it will take very much time.

Mr. Grossman: No, it won't.

Mrs. King: Our only purpose in saying anything at all was to enable the Government to look up the authorities on that point. This is not an effort to attempt to avoid the production of a witness, but in order that that question of law may be before your Honor tomorrow morning.

Mr. Del Guercio: I think that point could be submitted on briefs, if your Honor please.

Presiding Inspector: I will hear them tomorrow. It won't take long.

Mr. Grossman: We shall file a brief, if your Honor please, but we will have something to say on it.

Presiding Inspector: You will probably have a citation of your authorities, and those you can hand in in writing. It will be easier for me if you do that. [3154]

Then we will adjourn until tomorrow morning.

(Reporter's Note: Here follows transcript of record of proceedings had in chambers at conclusion of formal session:)

Presiding Inspector: The Government advises me that with respect to the examination of the minutes taken by Mrs. Segerstrom that the Government's experts are ready to proceed tomorrow from 9:00 to 10:00 A.M. The Government will agree that a small cut from the document may be made, which the Court Reporter will identify on the back as cut from the original. The document must be cut in such a way as not to harm its usefulness as a document subsequently usable in court.

Mr. Grossman: Yes.

Presiding Inspector: However, the piece which is cut out must not be destroyed but may be treated by chemicals which will not obliterate, though they may change, the color of the writing thereon.

Mr. Grossman: May I make a couple of suggestions that I don't think are inconsistent, and see if they are agreeable? That the nature of the writing on the back of the little piece, or, rather, the material with which it is written be determined by our expert so that it will not interfere with the test.

Presiding Inspector: Certainly, that is quite all right. They don't want anything that will soak through.

Mr. Del Guercio: And it must be returned, of course. [3155]

Presiding Inspector: And the piece will be returned.

Mr. Grossman: And it is understood that the time suggested is the first time in which it can be done. It may be that our expert is not able to begin at that time.

Mr. Connelley: He will be available any time tomorrow. Whatever you want in the way of arrangements. We will have our men available or here for that purpose.

Mr. Grossman: With whom shall I arrange that?

Presiding Inspector: To be here at nine o'clock.

Mr. Connelley: We have got to arrange first to have the document produced here and the cut made in the presence of the court reporter and a record made accordingly of it. I still persist in the statement that nothing can be done to that document which shall mar or hinder the possibilities or make impossible a production of the document at subsequent proceedings wherein it might be necessary as evidence. If there is any dispute between your expert and our experts, that will be brought before Judge Sears for adjustment, so that there will be no wrangle or anything at all about this, because we have men here that are high class and we assume that your men will be the same. We have no reason to believe otherwise. And I think that is the fair thing. We shouldn't have any wrangle between the experts.

Mr. Grossman: All right. I will make arrangements as soon as we can. The name of the expert, for the record, is [3156] Edward Oscar Heinrichs.

I don't know whether it is Oscar Edward Heinrichs or Edward Oscar Heinrichs.

Presiding Inspector: Well, you are just like that witness!

Mr. Del Guercio: All right, I think that is all.

Mr. Grossman: I assume it is nine o'clock here unless we make other arrangements over the telephone.

Presiding Inspector: You won't want me at that time?

Mr. Grossman: I don't think we will.

Mr. Del Guercio: If we do we will call you up.

Presiding Inspector: We will have this room open at nine o'clock.

Mr. Grossman: If it is at a different time we can notify the reporter.

(Whereupon, at 2:15 o'clock P.M. an adjournment was taken until Friday, May 9, 1941, at 10:00 o'clock A.M.) [3157]

Court room 276,

Federal Building,

San Francisco, California,

May 9, 1941

Met, pursuant to adjournment at 10:00 A.M.

[3158]

(Reporter's Note: The following proceedings were had in chambers prior to the opening of the formal session:)

Presiding Inspector: I suggest that you restate that for the record, Mr. Connelley.

Mr. Connelley: That any examination made by Mr. Heinrichs is to be made under the actual visual observation of the Government representative. If there is any difference of opinion as to whether or not this should be done the opinion of the Government representative shall be complied with; that it will not take place at that time, and no further examination shall proceed, if Mr. Heinrichs' ideas are to be pursued, until that has been brought up before Judge Sears himself, with Mr. Heinrichs and our expert present, so that we can arrive at an agreement.

Presiding Inspector: That no further examination along that line be made, but if they could complete something else it could be done, as a matter of expedition.

Mr. Connelley: Yes. There definitely should be no dispute of any kind as between the examiners. If the Government examiner says that a certain examination shall not be made, that will not be made, and it should be definitely understood that anything and everything that is done by Mr. Heinrichs in connection with this document shall be in the actual presence and under the observation of the Government representatives.

At the conclusion of the examination today, whether the [3159] examination is complete or not, all portions of the document in its entirety, whether it be a cut therefrom or otherwise, shall be returned to the possession of the reporter and remain in his custody tonight.

If the examination is not completed as of this date, on the following day the same procedure is to be followed, until the examination is completed.

Presiding Inspector: That is all right.

Mr. Grossman: Yes. All I have to say is—I see the reason for that rule—that will have to be discussed at the very beginning. If it appears impossible—I hope this can be agreed between your representative and Mr. Heinrichs—I don't know whether that is possible—but let that be discussed between the representatives.

Presiding Inspector: Mr. Grossman has this in mind: If it is necessary to do—

Mr. Connelley: (Interposing) I speak with this idea in mind! That the expert and myself both know that a certain thing can be done and cannot be done. If the process cannot be completed, so as to retard the return of this exhibit to the possession of the court reporter tonight, that provision shall not take effect today but on the day when the complete operation can be completed.

Mr. Heinrichs should be cautioned specifically that any processes he uses he will be held directly responsible for the [3160] obliteration, or alteration, or marring of this document, beyond the possible discoloration of the writing. It is his responsibility as an expert to retain this document in its original state, in so far as certain previous limitations have been indicated, and he is responsible to know that any processes he uses will not do anything which will alter the document and make it inadmissible later on.

Mr. Grossman: No objection.

Presiding Inspector: Then that is understood.

Mr. Grossman: The address of Mr. Heinrichs is 1001 Oxford, Berkeley. He is there this morning.

Could it be done this morning?

Mr. Connelley: Any time.

Mr. Grossman: This can be off the record.

Presiding Inspector: Yes.

(Remarks outside the record.)

Presiding Inspector: That is all.

(Whereupon the conference in chambers was concluded.) [3161]

PROCEEDINGS

Presiding Inspector: Call your witness, Mr. Grossman.

Mr. Grossman: Will you step up, please?

EMMA KATZER

called as a witness on behalf of the Alien, having been first duly sworn, testified as follows:

Direct Examination:

By Mr. Grossman:

Q. What is your full name, please?

A. Emma Katzer.

Q. What is your position?

A. I am the Clerk of the Justice Court of Sonoma Township.

(Testimony of Emma Katzer.)

Q. Were you or was your superior officer served with a subpoena to bring certain documents to this Court?

A. The Clerk of the Justice's Court was subpoenaed, and I am the Clerk.

Q. I beg your pardon?

A. I am the Clerk of the Justice's Court and I was subpoenaed.

Q. You were subpoenaed? A. Yes.

Q. And did you find certain documents which were described in the subpoena? [3162]

A. Yes. In the case of Samuel Diner.

Q. And did you bring those documents in response to the subpoena? A. Yes, sir.

Q. May I see them, please? If you will stay there, I will get them.

A. (Producing docket.)

Q. Will you just open the page, please?

A. (Opening page of docket.)

Q. This appears to be the docket of the Court. Will you find the pages that refer to the matter called for in the subpoena?

A. (Locating pages.)

Mr. Del Guercio: Is there a question?

Mr. Grossman: I asked her to find the pages that refer to the matter called for in the subpoena.

The Witness: Here are the pages.

By Mr. Grossman:

Q. May I see them, please?

A. (Handing docket to Mr. Grossman.)

(Testimony of Emma Katzer.)

Q. Would you mind, first, describing the book that you have brought with you in response to the subpoena and then reading all of the official Court records of the Justice Court of Sonoma Township dealing with Sam Diner which were brought in response to the subpoena? [3163]

Mr. Del Guercio: I object to that question. No foundation has been laid for the reading of that particular docket.

Presiding Inspector: Let me see it.

(The docket referred to was passed to the Presiding Inspector.)

Presiding Inspector: I will sustain the objection.

By Mr. Grossman:

Q. What is the book that you have brought with you?

A. The Criminal Justice Docket of the Justice Court of Sonoma Township.

Q. And what matters are entered in that book?

Mr. Del Guercio: Your Honor, I object to that question. It makes no difference.

Presiding Inspector: No. It is the Justice Docket. That is sufficient. Let us find out what the Court is.

By Mr. Grossman:

Q. Will you describe the functions of the Court, please, and the legal authority, if you know it?

Presiding Inspector: The jurisdiction.

The Witness: The jurisdiction of the Court?

(Testimony of Emma Katzer.)

Presiding Inspector: Yes.

The Witness: Does that mean—

Presiding Inspector: (Interposing) Whether it has jurisdiction of crimes of high magnitude, felonies or only misdemeanors. [3164]

A. Well, I couldn't say.

Mr. Grossman: Your Honor, it seems to me that is a matter of law.

Presiding Inspector: It is, but I thought she might know. I have no knowledge what this is at all.

Mr. Grossman: As a matter of fact, I am not certain myself what the extent of the jurisdiction is without checking into the statutes, but it is in the statutes.

Presiding Inspector: Well, I will let you show that this man was charged with a certain offense and that he was found guilty of that offense. But I won't take the whole record.

Mr. Grossman: All right.

Presiding Inspector: And bound over.

By Mr. Grossman:

Q. Will you state whether that docket shows that the records of the Sonoma Township Justice Court show any charge against Sam Diner?

Mr. Del Guercio: Just a minute, please! I will object to the question, if your Honor please, on various grounds. In the first place, as the Court will recall, Mr. Diner—Sam Diner—

Presiding Inspector (Interposing): It doesn't

(Testimony of Emma Katzer.)

have to be about a conviction. This is a conviction.

Mr. Del Guercio: But it is not a conviction for a felony. [3165] This is a question as to whether it is even a conviction for a misdemeanor.

Presiding Inspector: Well, it is a conviction of something.

Mr. Del Guercio: He was required to put up a peace bond, as I understand.

Presiding Inspector: That's it.

Mr. Del Guercio: Now, that isn't a—

Presiding Inspector: Oh, it is for what it is worth.

Mr. Del Guercio: Well, as I say, it isn't a conviction.

Presiding Inspector: I merely limited it to the conviction and the penalty imposed.

Mr. Grossman: All right.

Presiding Inspector: Because that is the conviction.

Mr. Grossman: May we have the question read?

Presiding Inspector: I will take the charge of what the offense was.

By Mr. Grossman:

Q. Does that show that there was any charge entered in the docket of the Justice Court against Sam Diner?

A. The charge is violation of Section 701 of the Penal Code. Is that what you want?

Presiding Inspector: Yes, that is right.

(Testimony of Emma Katzer.)

By Mr. Grossman:

Q. That is correct. What is the date of the charge? [3166] A. January 22, 1932.

Q. What is the entry alongside that page?

Mr. Del Guercio: I will object to that unless it is within the limitations prescribed by the Court.

Presiding Inspector: Yes, so far as it refers to the charge.

A. Threat to do bodily harm.

Presiding Inspector: Threat to do bodily harm.

By Mr. Grossman:

Q. All right. Was there a plea of guilty or not guilty in that case?

A. There was a plea of not guilty, and—

Q. (Interposing): Just a moment! Don't answer any more than the question calls for. Was there a trial? A. There was a trial.

Q. What was the date of the trial?

A. February—

Mr. Del Guercio (Interposing): I will object. That isn't within the limitations prescribed by the Court.

Presiding Inspector: What was the result of the trial?

The Witness: He was found guilty.

Presiding Inspector: And what was the penalty imposed?

The Witness: It was to put up a \$500 peace bond, I believe. \$500 peace bond.

Presiding Inspector: To run how long? [3167]

The Witness: I—(Pause.)

(Testimony of Emma Katzer.)

Presiding Inspector: How long was it to run?

The Witness: That was for six months.

Presiding Inspector: Yes. To the people of the State and particularly to the complainant?

The Witness: To the complainant.

By Mr. Grossman:

Q. Could you give me the number or description of that case as it appears in the docket?

Mr. Del Guercio: I will object to that, if the Court please. That has already been done, the Section of the Code.

Mr. Grossman: No, the title of the case and the number of the case, if there is any.

A. The number of the case is 284.

By Mr. Grossman:

Q. And what is the title of the case?

A. "People of the State of California versus John Doe Diner" and later changed to "Samuel Diner." [3168]

Mr. Grossman: No more questions.

Cross Examination

By Mr. Del Guercio:

Q. Now, Miss—I didn't get your name—I beg your pardon.

A. What?

Q. What is your name, please?

A. My name?

Q. Yes.

A. Emma Katzer.

Q. Now, Miss Katzer, does your record show if that bond was exonerated? Your testimony is that the docket shows that is a six months' bond. Does

(Testimony of Emma Katzer.)

the docket show that the bond was exonerated at the end of the six months' period?

A. (Examining document).

Presiding Inspector: Does the record show about the exoneration of the bond?

A. No, it doesn't; the record doesn't show.

By Mr. Del Guercio:

Q. Does the record show if it is still in effect?

Presiding Inspector: It was only to run for six months.

By Mr. Del Guercio:

Q. Does that show any kind of a personal surety?

A. A peace bond, yes; two sureties.

Q. Two personal sureties? [3169] A. Yes.

Mr. Del Guercio: That is all.

Mr. Grossman: That is all.

Presiding Inspector: That is all.

(Witness excused.)

Mr. Grossman: Your Honor, I will get our next witness.

Presiding Inspector: Mr. Grossman, you showed in that examination the date of that?

Mr. Grossman: I asked the date of the charge.

Presiding Inspector: That is all right.

Mr. Del Guercio: 1932.

Presiding Inspector: I wasn't sure that was in the record.

Stand and raise your right hand.

JEANNINE LOWRY

called as a witness on behalf of the Alien, having been first duly sworn, testified as follows:

Mr. Grossman: Before we ask any questions, when Chief Dullea was on the stand I asked to withdraw the official records of the Police Department and substitute photostatic copies.

I have the photostatic copies here and I ask leave to substitute them and have the reporter send the original documents, or deliver them to the Chief of Police.

Presiding Inspector: That is quite all right. That is our general practice. [3170]

Mr. Del Guercio: You will first compare the photostats with the originals, Mr. Reporter?

The Reporter: Yes.

Mr. Grossman: These were prepared by the Reporter, Mr. Del Guercio.

Direct Examination

By Mr. Gladstein:

Q. Miss Lowry, will you state your full name?

A. My name is Jeannine Lowry—J-e-a-n-n-i-n-e L-o-w-r-y.

Q. Your residence is what, please?

A. 1135 1/2 Larrabee Street, Hollywood.

Q. Spell it, please. A. L-a-r-r-a-b-e-e.

Q. Are you employed? A. I am.

Q. What is the nature of your employment?

A. I do secretarial work.

Q. For whom do you do that?

A. Mr. Guy Gadbois—G-a-d-b-o-i-s.

(Testimony of Jeannine Lowry.)

Q. Now, Miss Lowry, were you ever a member of an organization known as the Hollywood Anti-Nazi League? . . . A. I was.

Q. Will you state when you were a member of that organization? [3171]

A. It was the early summer of 1939 when I joined. I think it would be May or June.

Q. And for how long did you remain a member?

A. One year.

Q. While you were a member of that organization did you ever do any reporting to the people in charge of the organization with respect to coverage of the meetings?

A. For about six or seven weeks I covered the meetings of the German-American Bund.

Q. How did you come to do this kind of reportage?

Mr. Del Guercio: If your Honor please, I object to the question.

Presiding Inspector: This is merely preliminary. I will take it.

A. It came about accidentally. On the 4th of July, 1939, the Bund was giving an open-air meeting at Hindenberg Park in Los Angeles, and I went with a group of friends, mostly out of curiosity. I was so shocked at what I heard that—

Mr. Del Guercio: I object to how shocked she was.

Presiding Inspector: This is merely preliminary. I will take it. It is just a story.

Mr. Gladstein: That is right.

(Testimony of Jeannine Lowry.)

A. (Continuing): —that when I got back I wrote up a report of what had been said, and who had been speaking, and [3172] showed it to some friends of mine, one of whom suggested I send it to the Hollywood Anti-Nazi League.

I was then called by Mr. Elkins, who asked me if I would be willing to make further reports for the League and go to Bund meetings and report on them.

By Mr. Gladstein:

Q. Did the Hollywood Anti-Nazi League at that time, Miss Lowry, publish a newspaper or other kind of publication?

A. They published a paper called "Hollywood Now".

Q. And in a general way what was the character of that publication?

Mr. Del Guercio: I object to that. We are not interested in the character of that publication.

Mr. Gladstein: This is for identification.

Presiding Inspector: I think strictly it is not material as yet, but it brings the story along. I suppose.

Mr. Gladstein: Right.

Presiding Inspector: I will take it with that understanding.

A. It was a paper which dealt, I think, largely with pro-democratic moves in Hollywood, and with whatever Nazi infiltration, or signs of Nazi infiltration they were able to discover.

(Testimony of Jeannine Lowry.)

By Mr. Gladstein:

Q. Now, did you attend meetings of the German-American [3173] Bund?

A. I attended about a half dozen; yes.

Q. And your purpose in attending those meetings was what?

A. Simply to make reports on them for the Hollywood Anti-Nazi League.

Q. Did you make such reports? A. I did.

Q. Did you, at any meeting that you attended of the German-American Bund, ever hear a speaker by the name of Ezra F. Chase?

A. Yes, I did.

Q. When did you hear him speak?

A. I had a report, a copy of a report of that meeting, and by checking it recently I find the date on it to be July 26, 1939.

Q. Do you remember where that meeting occurred?

A. It took place at the Deutches Haus—
D-e-u-t-c-h-e-s H-a-u-s—two words.

Q. You were a member of the audience at the time Mr. Chase spoke? A. I was there; yes.

Q. Was he also a member of the audience?

A. He was a speaker.

Q. Do you recall what he spoke about? [3174]

Mr. Del Guercio: If your Honor please, I object to the question: The question is, "Do you recall what Ezra Chase spoke on at this meeting?" I object to the question, on the ground that it is

(Testimony of Jeannine Lowry.)

immaterial and irrelevant, and not proper examination in this proceeding.

Mr. Gladstein: It shows bias. That is the purpose of the examination.

Presiding Inspector: Bias?

Mr. Gladstein: Yes. Do you want an explanation of it?

Presiding Inspector: Yes.

Mr. Del Guercio: Well, now, if your Honor please, I don't think—

Presiding Inspector: I don't understand that you can show—was there reference to the Alien in the speech?

Mr. Gladstein: No—yes. As a matter of fact, there was reference to the Alien in the speech, but that isn't the only point. The point is this: We are going to establish by this witness, who was present at this meeting—

Mr. Del Guercio (Interposing): I don't think this should be permitted in the presence of the witness.

Presiding Inspector: I have to know what it is about before I can rule on it. Go ahead.

Mr. Gladstein: We wish to establish by this witness, who was present at this meeting of the German-American Bund, that Ezra F. Chase spoke as a speaker on the rostrum at that [3175] meeting under the auspices of the German-American Bund, and that he publicly advocated that people should join the German-American Bund.

Now,—

(Testimony of Jeannine Lowry.)

Presiding Inspector: I will exclude it.

Mr. Gladstein: I haven't finished yet.

Presiding Inspector: Go ahead.

Mr. Gladstein: We contend that any person who has done that shows anti-labor bias, and we will establish before this hearing is over the German-American Bund itself is anti-labor and preaches doctrines which are anti-labor.

Presiding Inspector: I will exclude it.

Mr. Gladstein: I haven't finished yet.

Presiding Inspector: Go ahead.

Mr. Gladstein: And, consequently, the witness, Ezra F. Chase, by virtue of this proof, demonstrates that he had at that time an anti-labor bias, not only against labor in general, but also against Bridges.

Presiding Inspector: I don't know that we are trying any Bund, or trying any labor case here. We are simply trying the question as to whether the Alien comes within the definition of a deportable person in the statutes. Now, we can't go into these remote matters of other organizations, their prejudices, unless there is some reference to the defendant.

Mr. Gladstein: As a matter of fact, there was. The article which was written up shows that Mr. Chase did refer to [3176] Bridges. But that is only a part of it.

If your Honor feels that on that point—

Presiding Inspector: You should have brought that out—

(Testimony of Jeannine Lowry.)

Mr. Gladstein: We didn't know it at that time, but it don't make any difference, because we asked him about his bias, and on direct examination he was asked on the question of bias, and he claims he wasn't biased in his testimony, and claims he wasn't a labor spy.

Your Honor, we have a right to prove—you correctly state what the primary problem is for you to settle—

Presiding Inspector: Yes.

Mr. Gladstein: But how is that problem to be settled—by the testimony of witnesses. One of the witnesses the Government has produced is Ezra F. Chase. Now, the question as to whether he is to be believed in the testimony that he has given is obviously one that requires a consideration of other factors, one of which is whether or not the witness is so biased on the question of labor in general that he is willing to take the stand and say things which are not true against a recognized leader of the labor movement.

We say, and we are willing to make an offer at this time, that we will establish before this case is over that the German-American Bund is definitely anti-labor, and anti-Bridges, and that by speaking under the auspices of that Bund, Mr. Ezra F. Chase marks himself as anti-Bridges and anti-labor. [3177]

Presiding Inspector: Well, I think that is too remote. I will allow you to show what, if anything, Mr. Chase said at this meeting in respect to Mr. Bridges.

(Testimony of Jeannine Lowry.)

Mr. Gladstein: Of course, I will accept that. But, in addition to that, I wish your Honor to know that we feel that any man who under the auspices of the German American Bund makes a speech advocating that he will join that organization, thereby demonstrates an anti-labor bias and we think we have a right to show that in this record.

Mr. Del Guercio: If the Court please, that is three times counsel has repeated that and I think there should be a limit to arguments along that line. And he fails to state that there has been a marriage between the Nazis and the Communists.

Presiding Inspector: Well, we all know about that. I think that we will exclude the Bund.

Mr. Gladstein: Could we have the last question?

Presiding Inspector: And its attitude toward trade unions. I suppose that is what you mean by "labor"?

Mr. Gladstein: Well, I am going to—

Presiding Inspector: Let us go as far as you can. I will let you state what Mr. Chase said about Mr. Bridges to show any bias.

Mr. Gladstein: I want to put a direct question to the [3178] witness first.

Presiding Inspector: You may.

By Mr. Gladstein:

Q. Miss Lowry, is it not a fact that at this meeting to which we are having reference now in your testimony Mr. Chase publicly advocated that people should become—

(Testimony of Jeannine Lowry.)

Mr. Del Guercio (Interposing): I can't hear counsel, if your Honor please. I can't hear you at all, not a word you are saying.

Mr. Gladstein: When I am finished with the question counsel can ask the reporter to repeat it instead of interrupting.

Mr. Del Guercio: I have a right to ask it at any time.

Presiding Inspector: He is entitled to hear it from you by word of mouth.

Go ahead.

Mr. Gladstein: Did you have trouble hearing me, your Honor?

Presiding Inspector: I did at that time. You had your hand over your face when you were speaking. You may not have realized it. I think the reporter probably could hear it.

Mr. Gladstein: Shall I proceed with the question, your Honor?

Presiding Inspector: No, let the reporter read it.

(The question referred to was read by the reporter as follows: [3179])

Q. Miss Lowry, is it not a fact that at this meeting to which we are having reference now in your testimony Mr. Chase publicly advocated that people should become——")

By Mr. Gladstein:

Q. —should become members of the German American Bund? A. Yes.

Mr. Del Guercio: Please don't answer the question until the Court rules.

(Testimony of Jeannine Lowry.)

Presiding Inspector: I will exclude it.

Mr. Gladstein: I now wish the record to show that I am making an offer of proof to this effect: That if this witness now on the stand were permitted to answer the question that I have just asked her, her answer would be, in substance, that Mr. Ezra F. Chase at this meeting of the German American Bund that has been identified publicly advocated that people should become members of the German American Bund.

Mr. Del Guercio: I will object to the offer of proof.

Presiding Inspector: I don't think it is material. I can't see how it is material.

Mr. Gladstein: That was the purpose of bringing this testimony into the record and I have no further questions to ask. I simply want the record to show this offer of proof and I am satisfied with the record as it is.

You may cross examine. [3180]

Presiding Inspector: I will hear the question. Did he say anything about Harry Bridges?

The Witness: Mr. Bridges was mentioned.

Presiding Inspector: In what way?

The Witness: Would I be allowed to refer to the report? because I don't remember the thing clearly.

Presiding Inspector: Certainly.

(The report referred to was passed to the witness.)

The Witness: Do you wish me to read it?

(Testimony of Jeannine Lowry.)

Presiding Inspector: No. Tell us what he said as best you can, using your notes to refresh your recollection.

The Witness: He said that he had attended a meeting—no, several meetings at which Bridges had spoken and that he had heard Bridges giving orders to a certain union saying “You have to watch out for Red-baiters. They are put into a union by the employers to cause dissention and to split the unions”. And he went on further to say that the Communists claimed that anyone who wasn’t with them was against them, and that, whereas he knew that Bridges was a member, he couldn’t prove it; he couldn’t prove that he was a member if he had to, because so many people change names, and so forth, in the Communist Party that it was impossible to produce any proof.

By Mr. Gladstein:

Q. Miss Lowry, did he make a reference in his speech to the deportation trial that was taking place against Mr. Bridges [3181] at that time?

Mr. Del Guercio: Now, if your Honor please, I will object to that. Counsel said that he was through with his examination of the witness.

Mr. Gladstein: Your Honor opened it.

Presiding Inspector: I will allow it. I opened it and I think I will allow that question. This may or may not show bias, I don’t know.

The Witness: I don’t see an actual reference to any deportation trial here, no.

Mr. Gladstein: May I see it for a moment?

(Testimony of Jeannine Lowry.)

(The report referred to was passed to Mr. Gladstein.)

Mr. Del Guercio: Is counsel going to refresh the witness' recollection or the document?

Presiding Inspector: Oh, I think that this is perfectly proper. It is a long document and he has probably read it very recently.

The Witness: It was almost two years ago.

Mr. Gladstein: Excuse me, your Honor.

Presiding Inspector: Take your time, Mr. Gladstein.

Mr. Del Guercio: We join in that.

Mr. Gladstein: We have no further questions.

Presiding Inspector: You withdraw the question?

Mr. Del Guercio: Is he withdrawing the last question? [3182]

Presiding Inspector: Yes. He withdrew it.

Mr. Del Guercio: May I have what the last question was?

(The question referred to was read by the reporter as follows:

"Q. Miss Lowry, did he make a reference in his speech to the deportation trial that was taking place against Mr. Bridges at that time?")

Cross Examination

By Mr. Del Guercio:

Q. Well, did he?

Mr. Grossman: Just a moment, your Honor! At this time I want to make an objection to all cross

(Testimony of Jeannine Lowry.)

examination by the Government counsel because the only questions that were asked the witness and permitted to be answered were preliminary questions, having no relevance whatsoever except in so far as the subsequent questions were permitted. Now, the questions that we considered relevant to this case as going to the bias of Mr. Chase have not been permitted by your Honor. Now, therefore in effect there has been no direct examination whatsoever.

Presiding Inspector: I will allow it.

By Mr. Del Guercio:

Q. Will you answer the question, please, Miss Lowry?

Presiding Inspector: This is to explain anything that may be in the mind of the trier of the facts or anyone who subsequently examines this record in view of the statements earlier [3183] made by counsel for the Alien.

Go ahead: That is its sole point.

A. The question was, do I have any recollection of a reference in his speech to the deportation trial that was taking place against Mr. Bridges?

By Mr. Del Guercio:

Q. Yes.

A. I have no recollection of that and I am not able to find it in the report.

Presiding Inspector: That is all. Go ahead. Next question.

By Mr. Del Guercio:

Q. Mrs. Lowry, is the Hollywood Anti-Nazi League still in existence?

(Testimony of Jeannine Lowry.)

A. I don't think it is.

Q. When did it go out of existence, do you know? A. I don't know.

Q. Do you know if it went out of existence at the time of the making of the treaty between Hitler and Soviet Russia?

A. I don't think it could have, no. I think it must have been in existence much longer because I know I was a member for a year, which would carry me into May, 1940, or June, 1940.

Q. Mrs. Lowry, have you ever been a member of the Young Communist League? [3184]

A. Of the what?

Q. Young Communist League?

A. No.

Q. Are you sure?

A. I am very sure, Mr. Del Guercio.

Q. Did you ever read the magazine "New Frontiers"? A. The what?

Q. "New Frontiers".

A. I never heard of the magazine.

Q. Is that your photograph appearing in this magazine? A. It is not.

Q. It is not? A. It is not.

Mr. Del Guercio: That is all, if your Honor please.

Mr. Gladstein: One further question, your Honor.

Presiding Inspector: Yes.

Mr. Gladstein: I suppose under your ruling, however, I would not be permitted to ask it, but I think I would like at least for the purpose of the

(Testimony of Jeannine Lowry.)

record to ask permission. This would not be redirect strictly, but it should be direct.

Presiding Inspector: Go ahead. Certainly.

Mr. Gladstein: I would like to ask permission to consider that this question was asked on direct, and that is to this effect. I don't suppose I need ask the question because I know there would be an objection, but I wish to make an offer [3185] of proof at this time that, if I were permitted to ask of the witness on the stand presently the question, Did Mr. Ezra F. Chase make an attack on Labor's Non-Partisan League on the occasion when you heard him speak under the auspices of the German American Bund? that her answer would be, in substance, He did.

Mr. Del Guercio: I will object to that, your Honor. The Labor's Non-Partisan League is not at issue.

Presiding Inspector: Have we heard anything about Labor's Non-Partisan League?

Mr. Gladstein: I don't know that it has been mentioned.

Presiding Inspector: I don't know, either.

Mr. Gladstein: Well, in a general way I will be subject to correction, Labor's Non-Partisan League has been called the "political arm of the Congress of Industrial Organizations" and is a national organization with chapters or subdivisions in various States of the United States, and not only represents in legislative and political fields the CIO, but also many affiliated groups.

(Testimony of Jeannine Lowry.)

Now, I don't offer this as evidence and I am subject to correction, but that is in general my description.

Presiding Inspector: An arm of the CIO?

Mr. Gladstein: It is connected—it has been connected with the CIO. [3186]

Mr. Del Guercio: May I supplement that description, inasmuch as counsel has given his?

We have information, too, and I am simply speaking about this Non-Partisan League: That it is a Communist controlled—

Mr. Gladstein (Interposing): I think John L. Lewis is the President of it.

Mr. Del Guercio: But there is no evidence here—we are not trying the Labor's Non-Partisan League. We are not alleging that Bridges is a member of the Labor's Non-Partisan League. It isn't at issue here.

Mr. Gladstein: Of course, it isn't, and that's why they don't allege it!

Mr. Del Guercio: There is that remark of counsel again, and there is the implication. I think I have the right to answer him.

Presiding Inspector: Yes.

Mr. Del Guercio: I say that Bridges is a member of the Communist Party.

Mr. Gladstein: Well, he has been saying that from the start, your Honor.

Presiding Inspector: Neither assertion amounts to anything.

Mr. Gladstein: That's right, I know.

(Testimony of Jeannine Lowry.)

Presiding Inspector: So let us not make those accusation. [3187]

Let us hear the question.

Mr. Gladstein: It is an offer of proof.

(The offer of proof referred to was read by the reporter as above recorded.)

Mr. Del Guercio: There is an objection, of course.

Presiding Inspector: I know. And you are going to add to that offer the further offer of proof that Mr. Bridges is a member of the Non-Partisan League?

Mr. Gladstein: He is, and during his testimony—

Presiding Inspector: (Interposing) That is part of your offer?

Mr. Gladstein: I don't think we could very well ask Miss Lowry as to whether Mr. Bridges ~~is~~ a member of the Labor's Non-Partisan League, but we will establish that he is, I think, the California Director of Labor's Non-Partisan League.

Presiding Inspector: I think I will take that proof. Go ahead.

Mr. Gladstein: I should amend that statement. Mr. Bridges, as California Director of the CIO—

Mr. Del Guercio: I don't accept that.

Mr. Gladstein: I haven't finished yet.

Presiding Inspector: Let him finish.

Mr. Gladstein: Is obviously connected with La-

(Testimony of Jeannine Lowry:)

bor's [3188] Non-Partisan League and is also a member of Labor's Non-Partisan League.

Presiding Inspector: Very well. I will take the proof.

By Mr. Gladstein:

Q. Do you understand the question?

A. The question is, Did Mr. Chase make any attack on Labor's Non-Partisan League in the course of the speech?

Q. Yes.

A. May I see the report, again, please?

Q. Yes, of course.

(The report referred to was passed to the witness.)

Presiding Inspector: Of course, the question here is where to draw the line, Mr. Gladstein. You understand that.

Mr. Gladstein: I realize that, your Honor. But this question of anti-labor bias is not a simple thing to define. It may be shown in a variety of ways, and our contention is that a man—

Presiding Inspector: (Interposing) It bears very slight, it seems to me, on the credibility of the witness..

Mr. Gladstein: It so happens, your Honor, —and this I will say also—that the testimony that we have offered to the effect that Mr. Chase advocated membership in the German American Bund will be more closely linked with vital testimony in this

(Testimony of Jeannine Lowry.)

case when Mr. Bridges takes the stand, because we intend to show that Mr. Bridges has exposed to the Department of Justice [3189] at least on one occasion, if not on several, the activities of Nazi spies in some of the aircraft plants in the southern part of California. And, obviously, anyone who takes such steps and reveals such things either to the Secretary of Labor or to the Department of Justice is a target for people who are connected with or members of or advocates of membership in the German American Bund.

Presiding Inspector: I shouldn't think that would be applicable to a meeting held—when was this meeting?

The Witness: July, 1939.

Presiding Inspector: (Continuing) —July, 1939, which was at least a month before war began. I mean, abroad.

Mr. Del Guercio: May I reply to counsel's argument here?

Presiding Inspector: You may, yes. Of course, it went rather far afield.

Mr. Del Guercio: It is far afield, but he is taking this opportunity here in order to show what Mr. Bridges has done. In other words, he has branded Mr. Chase as being a labor spy for doing the same thing that he now admits that Mr. Bridges has done.

Presiding Inspector: That is argumentative. We will take that up when we come to it.

(Testimony of Jeannine Lowry.)

Mr. Del Guercio: I was wondering there whether he was going to brand his client as a labor spy.

[3190]

Presiding Inspector: Well, you hope so. Go ahead, Mr. Gladstein.

By Mr. Gladstein:

Q. Could you now answer the question, Miss Lowry?

A. Yes, I shall. Mr. Chase said that—

Q. (Interposing) First of all, could you answer the question as to whether he attacked Labor's Non-Partisan League?

A. Yes. He did attack it.

Mr. Gladstein: Does your Honor wish to hear the manner in which he attacked it?

Presiding Inspector: Yes.

Mr. Del Guercio: I object to the question. I will withdraw the objection.

Presiding Inspector: I will take it.

The Witness: Mr. Chase said, I think the previous year, that the Board of Education has been trying to prove that Labor's Non-Partisan League was Communist in order to keep it out of the schools. Mr. Chase said that it was his own testimony that clinched matters and decided the Board of Education that Labor's Non-Partisan League was Communistic and that he had testified to a lot of things like that; that he got around a lot.

Presiding Inspector: What did she say there at the end?

(The answer referred to was read by the reporter as above recorded.) [3191]

(Testimony of Jeannine Lowry.)

The Witness: His words were, "I get around. I speak before a lot of groups and all, but some of them ain't got the courage to come out in the open just yet".

[By Mr. Gladstein:

Q. Did he mention any groups in there that do have the courage to come out in the open?

A. No, he didn't.

Q. Did he make any reference to people in the Bund, coming out in the open?

A. Oh, yes. He urged that people join the Bund.

Mr. Del Guercio: I will object to that. This is an attack on Labor's Non-Partisan League.

Presiding Inspector: I think I will just allow that single sentence to stay in the record. It really goes outside of my ruling.

Mr. Del Guercio: Yes.

Mr. Gladstein: That is all, your Honor.

Presiding Inspector: Anything further?

Mr. Del Guercio: Nothing further, your Honor.

Presiding Inspector: That is all.

The Witness: Thank you, Your Honor.

(Witness excused.)

Presiding Inspector: Next witness, Mr. Gladstein.

We might take a five-minute recess.

(Whereupon a short recess was taken.)

[3192]

Mr. Gladstein: Will you take the stand, please.